

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH: JODHPUR**

**Before Shri Saktijit Dey, Vice President
Dr. B. R. R. Kumar, Accountant Member**

ITA No.10/Jodh/2019 : Asstt. Year: 2014-15

M/s Milk Foods Aids Pvt. Ltd., C/o Rajendra Jain, Advocate, 106, Akshay Deep Complex, 5 th B Road, Sardarpura, Jodhpur.	Vs	ACIT, Central Circle, Bikaner.
(APPELLANT)		(RESPONDENT)
PAN No. AABCM0047R		

**Assessee by : Smt. Raksha Birla, CA
Revenue by : Sh. Rajeev Mohan, JCIT-DR**

Date of Hearing: 20.09.2023	Date of Pronouncement: 22.09.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by assessee against the order of Id. CIT(A)-4, Jaipur, dated 25.10.2018.

2. Following grounds have been raised by the assessee:

1. *That on the facts and in the circumstances of the case, the Id. CIT(A) erred in upholding validity of imposition of penalty u/s 271BA of the Act.*

2. *That on the facts and in the circumstances of the case, the Id. CIT(A) erred in sustaining penalty u/s 271BA of the Act.*

3. *That on the facts and in the circumstances of the case, the Id. CIT(A) erred in not considering reasonable explanation furnished by the assessee.*

4. *That the petitioner may kindly be permitted to raise any additional or alternative grounds at or before the time of hearing.*

3. Penalty has been levied u/s 271BA for failure of the assessee to upload the report u/s 92E before the due date of filing of the return. It was submitted that the assessee has produced the report before the Assessing Officer before the completion of the assessment. It was submitted that the Form No.3CEB could not be uploaded as the provision has been introduced recently and due to technical glitches.

4. Having gone through the facts of the case and the order of the coordinate Bench of the ITAT, Jodhpur, in ITA No.567/Jodh/2018, we hold that no penalty can be leviable u/s 271BA if there is a reasonable cause for failure of the assessee as provided u/s 273B. Since the explanation given by the assessee are acceptable as reasonable, the penalty levied u/s 271BA is hereby obliterated.

5. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 22/09/2023.

Sd/-

(Saktijit Dey)
Vice President

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 22/09/2023

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR