

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.949/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>Shri S.Mangilal</b> No.1/223, Market Road, Kelambakkam, Chennai-603 103.	<b>बनम</b> / Vs.	<b>ACIT</b> Central Circle -3(3), Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.	<b>AAMP-7950-P</b>	
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri S.P.Chidambaram(Advocate)-Ld.AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri D.Hema Bhupal (JCIT)-Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	28-11-2023
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	28-11-2023

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aggrieved by confirmation of penalty u/s 271B for Rs.1.36 Lacs vide impugned order dated 05-04-2022, the assessee is in further appeal before us. The said penalty is levied for failure to get accounts audited and filing of Tax Report Audit u/s 44AB within stipulated time.
2. The Ld. AR submitted that Audit was completed within extended due date and the delay has taken place only in uploading of the same. The Ld. AR relied on the decision of this Tribunal in **Shri Manipillai Saravanan (ITA No.497/Chny/2023 dated 25.09.2023)** rendered on

similar factual matrix. The Ld. Sr. DR submitted that the assessee could not demonstrate any reasonable cause for default. Having heard rival submissions, our adjudication would be as under.

3. The impugned penalty stem from the fact that the assessee was assessed u/s 143(3) assessing total income of Rs.40.04 Lacs. However, it was noted that the stipulated extended date for filing of return of income along with Tax Audit Report was 07-11-2017. However, the assessee uploaded Tax Audit Report dated 28-10-2017 only on 01-02-2018. Therefore, impugned penalty was levied by Ld. AO u/s 271B. The Ld. CIT(A) confirmed the same on the ground that the assessee could establish reasonable cause. Aggrieved, the assessee is in further appeal before us.

4. The undisputed fact that emerges is that the extended due date for filing Tax Audit Report for this year was 07-11-2017. The assessee has got the accounts audited before that date. There is delay only in uploading of the same. Therefore, in our considered opinion, this is not a fit case for levy of impugned penalty. The cited decision of Tribunal is on the same lines. By deleting the impugned penalty, we allow the appeal.

5. The appeal stand allowed.

*Order pronounced in open court on 28<sup>th</sup> November, 2023.*

**Sd/-**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :28-11-2023  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF