

**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.981/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>K1594 Perumanallur Primary Agricultural Co-operative Credit Society</b> 1, Eswaran Kovil Street, Perumanallur Post, Avinashi Taluk, Tirupur-641 666.	<b>बनाम/</b> <b>Vs.</b>	<b>ITO</b> Ward-1(4), Tirupur.
<b>स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AABAK-3989-Q</b>		
<b>(पीलार्थी/ Appellant)</b>	<b>:</b>	<b>(प्रत्यर्थी / Respondent)</b>

<b>अपीलार्थीकी ओरसे/ Appellant by</b>	<b>:</b>	<b>Ms. A.Vijayalakshmi (CA)-Ld.AR</b>
<b>प्रत्यर्थीकी ओरसे/ Respondent by</b>	<b>:</b>	<b>Shri D.Hema Bhupal (JCIT)-Ld. Sr. DR</b>

<b>सुनवाईकी तारीख/Date of Hearing</b>	<b>:</b>	<b>28-11-2023</b>
<b>घोषणाकी तारीख /Date of Pronouncement</b>	<b>:</b>	<b>28-11-2023</b>

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aggrieved by confirmation of penalty u/s 271B for Rs.1.50 Lacs for Assessment Year (AY) 2017-18, the assessee is in further appeal before us. The impugned order has been passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 25.08.2023 in the matter of impugned penalty levied by Ld. Assessing Officer [AO] u/s. 271B of the Act vide order dated 13.02.2023. 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 impugned penalty stem from the fact that the assessee filed return of income on 16.03.2018 along with statutory audit report as against due date of 31.10.2017. The Ld. AO levied impugned penalty on the ground that the assessee could not establish reasonable cause. During appellate proceedings, the assessee submitted that audit report was made available to Ld. AO during assessment proceedings and therefore, penalty is not leviable as held by Chennai Tribunal in **Vellakovil Primary Agricultural Co-operative Bank Ltd. (ITA No.49/Chny/2023 & ors. dated 23.06.2023)**. The assessee also submitted that it being a Primary Agricultural Cooperative Society was maintaining books of accounts as per Tamil Nadu Cooperative Society Act, 1983. As per the by-laws, statutory audit was mandatory. The statutory audit report dated 31.10.2017 was received by the assessee during February, 2018 from Assistant Director of Co-operative Society, Udthagamandalam. The Tax Audit Report and return of income could be filed only upon receipt of statutory audit report. However, rejecting the same, Ld. CIT(A) confirmed the penalty against which the assessee is in further appeal before us.

3. From the facts, it emerges that the assessee is Primary Agricultural Cooperative Society. It has to maintain books of accounts as per Tamil Nadu Cooperative Society Act, 1983. As per the by-laws, statutory audit is mandatory for the society. The statutory audit report dated 31.10.2017 has been received by the assessee during February, 2018 from Assistant Director of Co-operative Society, Udthagamandalam. It is only upon receipt of the Statutory Audit Report, the assessee could have filed Tax Audit Report and return of income. Therefore, the delay could not be attributed to the assessee. The Tax Audit Report was duly furnished

during the course of assessment proceedings. Under such circumstances, the impugned penalty could not be levied for mere venial breach without there being any mala-fide intention on the part of the assessee. The cited decision of the Tribunal is in similar lines and favors the case of the assessee. Respectfully following the same, we delete the impugned penalty.

4. 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. प्रत्यर्था/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF