IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH: 'G', NEW DELHI

BEFORE HON'BLE JUSTICE C.V. BHADANG,PRESIDENT

AND

SHRI G.S. PANNU, HON'BLE VICE PRESIDENT

ITA NO. 442/DEL/2022

A.YR. :2011-12

SINGH & CO., A-6, RAJ AVENUE, DLF SOCIETY, BLOCK-D, SAHIBABAD GHAZIABAD, UTTAR PRADESH-201005 (PAN: ABTPS2673K)	Vs.	ITO, WARD 2(3), GHAZIABAD
(Appellant)		**(Respondent)**

Assessee by	None
Department by	Sh. Anuj Garg, Sr. DR

Date of Hearing	06.11.2023
Date of Pronouncement	01.12.2023

ORDER

PER G.S. PANNU, VP:

This appeal by the Assessee is directed against the order of the Ld. CIT(A), NFAC, Delhi dated 12.11.2021 which in turn has arisen from an order passed by Income Tax Officer, Ward 2(3), Ghaziabad dated 26.06.2019 under section 271B of the Income Tax

Act, 1961 (hereinafter referred to as 'the Act') pertaining to assessment year 2011-12.

2. In the captioned appeal, the solitary issue relates to the penalty imposed by the AO under section 271B of the Income Tax Act, 1961 for failure of the assessee to get its accounts audited in terms of section 44AB of the Act in relation to assessment year 2011-12.

3. When the matter was called out, none appeared on behalf of the assessee-appellant. The record of proceedings show that the appeal has been fixed on multiple occasions and inspite of service of the notice, the assessee-appellant has chosen not to put in appearance. Therefore, considering the provisions of Rule 24 of the Income Tax (Appellate Tribunal) Rules, 1963 the Appeal is being disposed of exparte qua the assessee-appellant, after hearing the Ld. DR on merits.

4. The background of the captioned dispute is that an assessment under section 143(3)/147 of the Act was completed in the case of the assesse on 30.12.2018 determining the income at Rs. 2,14,69,750/- as against NIL returned income. The AO notes that the assessee firm did not file any return originally, but only in response to a notice under section 148 of the Act dated 30.3.2018

a return of income was filed declaring NIL income. Notably, the assessment was reopened on the basis of information received from the Investigation Wing of the Department. Be that as it may, qua the present controversy, it would suffice to note that the assessee was found to have turnover of business in excess of the threshold limit as prescribed under section 44AB of the Act and therefore, its accounts were liable to be audited in terms of Section 44AB of the Act. The AO has noted that there was a failure on the part of the assessee to get its accounts audited under section 44AB of the Act and in the absence of any reasonable cause, penalty under section 271B of the Act of Rs. 1,09,000/- has been imposed. The said action of the AO has since been affirmed by the CIT(A), against which assessee is in further appeal before us.

5. Before us, the Ld. DR has pointed out that the authorities below have recorded concurrent findings that there was no reasonable cause for not complyingwith the requirements of section 44AB of the Act, therefore, penalty under section 271B of the Act has been rightly imposed.

6. We find that the factum of non-compliance of Section 44AB of the Act is quite apparent and apart from ignorance of law, no other cause has been canvassed on behalf of the assessee for mitigating

the rigors of the penalty imposable under section 271B of the Act. The authorities below have noticed that the assessee firm was carrying on the business of importing of mobile phonesand accessories etc. and that its partners were also running multiple businesses. According to the CIT(A),in the facts and circumstances of the case, ignorance of law is not discernible from the conduct of the assesseeand therefore, he has affirmed the penalty imposed under section 271B of the Act. We find no reason to interfere in the order of the CIT(A) which is founded on the sound reasons. Accordingly, assessee has to fail in its appeal.

7. Resultantly, appeal of the Assessee is dismissed, as above.

The above decision was pronounced through Video Conferencing on 01.12.2023.

Sd/-	**Sd/-**
(G.S. PANNU) **VICE PRESIDENT**	**(JUSTICE C.V. BHADANG)** **PRESIDENT**

"SRBhatnagar"

<u>Copy forwarded to:</u>

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi