

IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI

BEFORE SHRI BR BASKARAN, AM & SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No. 2713/Mum/2023
(निर्धारण वर्ष / Assessment Years: 2020-21)

Edwise International LLP 2 Jer Mahal Ground Floor, Opp Metro Cinema Dhobi, Talaoo Mumbai – 400002	बनाम/ Vs.	NFAC, Delhi.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAEFE2291B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	None
Revenue by:	Shri P.D. Chougule (Addl. CIT)

सुनवाई की तारीख / Date of Hearing: 07/02/2024
घोषणा की तारीख /Date of Pronouncement: 13/02/2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee company against the order of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi dated 28.07.2023 for AY. 2020-21 against the penalty of Rs. 1,50,000/- confirmed u/s 271B of the Income Tax Act, 1961 (hereinafter "the Act")

2. The brief facts we note are that the assessee had filed the return of income on 27.03.2021 for the relevant A.Y 2020-21. And the due date of filing of tax audit report (TAR) as required u/s 44AB of the Act was on 31.10.2020. Therefore, the AO initiated penalty proceedings u/s 271B of the Act. Pursuant to the show cause notice, the assessee brought to the notice of the AO that the assessee's chief accountant Ms Rakhee Chitnis who was looking after all the accounts of assessee including the filing of income tax returns was infected by corona virus



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and confined to home quarantine and therefore her family members also were infected because of which she could neither finalize the accounts of the assessee for A.Y 2020-21 nor file the TAR before the due-date. However, the AO did not accept the explanation given by the assessee in the absence of medical documents and levied a penalty of Rs. 1,50,000/-. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who was pleased to dismiss the appeal of the assessee. Aggrieved by the impugned action of the Ld. CIT(A), the assessee is before us.

3. We note that the assessee had filed the TAR *albeit* late and the due date of filing of the TAR was on 31.10.2020, which was in the midst of Covid-19 pandemic; and the various State Governments had imposed restrictions on the movements of the residents based on the spread of the Corona virus. We note that the assessee has explained the reasons for not filing the tax audit report u/s 44AD of the Act within the due date i.e 31.10.2020 due to its chief accountant Ms. Rakhee Chitnis and family members being affected by the Corona virus, which is plausible. And by taking judicial notice of the situation prevalent at that time in India, we are of the view there was reasonable cause for the delay caused in filing the TAR before the due date i.e, 31.10.2020. Since there is reasonable cause for non-levy of penalty, we direct the deletion of penalty.



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4. In the result, the appeal filed by the assessee is allowed.
Order pronounced in the open court on this 13/02/2024.

Sd/-
(BR BASKARAN)
(ACCOUNTANT MEMBER)

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 13/02/2024.
KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai