

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, PUNE**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.03/PUN/2024

Assessment Year: 2017-18

Rohan Vasant Kale,
412, Ghankar Lane,
Wakil Wadi, Ashok Stamb,
Nashik – 422 001, Maharashtra
PAN : AHXPK5365J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-1, Nashik

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ashish Mahendra Bhalgat
Revenue by : Shri Sourabh Nayak

सुनवाई की तारीख / Date of Hearing : 13-03-2024

घोषणा की तारीख / Date of Pronouncement : 13-03-2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre (NFAC), Delhi, dated 31.10.2023 passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) confirming the levy of penalty of Rs.1,50,000/- u/s.271B of the Act.

2. Briefly, the facts of the case are that the appellant is an individual deriving income from supply of dental material and equipment. Return of income for the A.Y. 2017-18 was filed on 19.09.2019. Against the said

return of income, the assessment was completed u/s.144 of the Act vide order dt. 12.12.2019. After completion of the assessment proceedings, the AO had issued show cause notice u/s.274 r.w.s.271 of the Act for failure of the assessee to get the accounted audited u/s.44AB of the Act as stipulated under the provisions of the Act. It was submitted that the Tax Audit Report was submitted on 04.10.2018 and the delay had occurred as the appellant underwent surgery in the month of October, 2017. However, rejecting the explanation of the appellant, the AO vide penalty order dt.11.02.2021 levied penalty of Rs.1,50,000/- u/s.271B of the Act. Even on appeal, the Id. CIT(A) confirmed the penalty levied by the Assessing Officer.

3. Being aggrieved by the order of CIT(A), the appellant is in appeal before the Tribunal.

4. We heard the rival submissions and perused the relevant material on record. The issue in the present appeal is whether or not the AO was justified in levying penalty of Rs.1,50,000/- u/s.271B of the Act. It is an admitted fact that the Tax Audit Report was submitted on 04.10.2018 much before the completion of assessment, i.e. 12.12.2019. No doubt the penalty is leviable under the provisions of section 271B even for the delay in filing the Tax Audit Report. Without going into the explanation given by the assessee, we are of the considered opinion that no prejudice was caused to the Revenue on account of delay in submission of Tax Audit Report.

Therefore, it is not a fit case for levy of penalty u/s.271B of the Act.
Accordingly, we direct the AO to delete the penalty of Rs.1,50,000/-.

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

Order pronounced in the open court on 13th March, 2024.

Sd/-
S.S. GODARA
JUDICIAL MEMBER

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 13th March, 2024

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune