

**।आयकर अपीलीय अधिकरण न्यायपीठ नागपुरमें।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR**

[VIRTUAL HEARING AT PUNE]

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.178/NAG/2022
निर्धारण वर्ष / Assessment Year : 2013-14**

Maharashtra Insecticide Ltd., C-4, MIDC Area, Shivani, Akola. Maharashtra – 444001. PAN: AABCM8923B	Vs	The Assistant Commissioner of Income Tax, Akola Circle.
Appellant/ Assessee		Respondent/Revenue

Assessee by	Shri Rajesh V. Loya – CA
Revenue by	Shri Abhay Y. Marathe – Sr.DR
Date of hearing	22/02/2024
Date of pronouncement	18/04/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeals)[NFAC], Delhi under section 250 of the Income Tax Act, 1961 dated 16.03.2022 emanating from the order under section 271B of the Act, dated 24.02.2016. The grounds of appeal raised by the Assessee are as under :

“(1) That the order of the Asst. Commissioner of Income Tax, Akola Circle, Akola is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.

(2) That the learned CIT(A) erred in law and on facts in upholding the action of Assessing Officer in levying penalty u/s.271B at Rs.1,50,000/- holding that the explanation offered by the appellant is of a very general and personal in nature and thus not convincing and considerable. On the facts and circumstances of the case and law, both the authorities did not consider the facts properly and should have appreciated that there was a reasonable cause for the impugned delay. The assessee did not have any malafide intention in causing the delay and therefore the penalty levied is unjustified and liable to be quashed.

(3) That for any other ground with kind permission of Hon'ble members at the time of hearing of appeal.”

Brief facts of the case :

2. For A.Y. 2013-14, due date for filing Audit Report under section 44AB was 30.09.2013. The assessee's case falls in the category mentioned in the section 44AB, therefore, it was mandatory for assessee to get its account audited and file Audit Report before the due date i.e. 30.09.2013. In this case, admittedly, Audit under section 44AB was done on 12.02.2014, thus, assessee failed to file the Audit Report within the statutory time limit. During the penalty proceedings, the assessee explained that assessee's Directors

are senior government officers and stationed outside Akola. Therefore, the Board Meeting could not be conveyed in time. The Id.Assessing Officer(AO) found that reasons filed by assessee were not sufficient. Therefore, the Id.AO levied penalty under section 271B of the Act of Rs.1,50,000/-. Aggrieved by the penalty order, assessee filed appeal before the Id.CIT(A), who confirmed the penalty. The assessee's appeal before Id.CIT(A) was delayed by 82 days.

3. Aggrieved by the order of the Id.CIT(A), the assessee filed appeal before this Tribunal.

Submission of Id.AR :

4. The Id.Authorised Representative(Id.AR) of the assessee submitted that assessee is a Government Company. Assessee's head office is located in Akola. That the assessee company is a fully owned subsidiary of Maharashtra Agro Industries Development Ltd.(MAIDC) which in turn is a company fully owned by the State and Central Government. The assessee company's head office is located at Akola. The Chairman and other executive directors forming the Board are highly placed government officials, occupying important posts

in various Government owned and run agro-organisations. However, the entire board of directors including the Chairman, except one director, are stationed outside Akola. Due to the location of the Board of Directors and their high designations they are pre-occupied at times in other government responsibilities and as result, the finalisation of accounts of the assessee company by the Board of Directors for the year under consideration got delayed inadvertently. Consequently, the accounts got approved in the Board meeting on 17-12-2013. The board resolution approving the accounts was submitted during assessment proceedings.

Submission of ld.DR :

5. The ld.Departmental Representative(ld.DR) for the Revenue submitted that reason for non-submission of Audit Report within the time limit is not sufficient. Just because the Directors are Government Officers does not mean that statutory provisions shall be violated. Rather the Government Officers have a larger role to play in following statutory provisions. They shall be role model.

Findings & Analysis :

6. We have heard both the parties and perused the records. It is an admitted fact that assessee's Audit Report was filed beyond the statutory date i.e.30.09.2013. The Audit Report was filed almost after five(05) months of statutory time limit. The only reason given by the assessee is that the Directors of the assessee are Senior Government Officers and they are not stationed in Akola. It was pleaded by the Id.AR that due to the the busy schedule of these Senior Government Officers, the Board Meeting could not be held in time, to approve the accounts. We do not find this reason as a sufficient cause for delay. In every company, be it the Government Company or a Private Company, the Directors are highly placed persons and are quite busy, however, this does not mean that they shall not adhere to the statutory time limits. There are many private companies in which Directors are stationed at various places. If this reason is accepted as sufficient cause for delay, then every company will come forward with such kind of excuses and violate statutory provisions. Therefore, in these facts and circumstances of the case, we are not satisfied with the reasoning for delay. Accordingly, penalty order is upheld.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 18th April, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 18th April, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.