

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.542 & 543/Chny/2024
निर्धारण वर्ष/Assessment Years: 2017-18 & 2018-19

Lakshmanan Nachammai, Plot No.59, Anna Nagar, Madurai-625 020.	v.	The ACIT, Corporate Circle-2, Madurai.
[PAN: ADHPN 3775 B]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri R.Vikneswaran, JCIT
सुनवाईकीतारीख/Date of Hearing	:	05.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 04.01.2024 & 15.01.2024 for the Assessment Years (hereinafter in short "AY") 2017-18 & 2018-19 respectively.



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2. The main grievance of the assessee is against action of the Ld.CIT(A) confirming penalty levied u/s.271B of the Income Tax Act, 1961 (hereinafter in short "the Act"). Brief facts relevant for levy of penalty u/s.271B of the Act, are that the assessee had filed her return of income for AY 2017-18 on 14.04.2018, whereas, she had to file the return of income along with Tax Audit Report (hereinafter in short "TAR") on or before 30.09.2017. Likewise, the assessee had filed the return of income for AY 2018-19 on 31.03.2019, whereas, she had to file the return along with TAR on or before 30.09.2017. The AO found that the assessee had belatedly filed return of income along with the TAR only on 14.04.2018 for AY 2017-18 and likewise filed the return of income belatedly along with the TAR for AY 2018-19 on 31.03.2019 and therefore, having violated the provisions of Sec.44AB of the Act, he initiated penalty u/s.271B of the Act for AY 2017-18 on 02.12.2021 and for AY 2018-19 on 18.02.2022 and thereafter, not satisfied with the reply of the assessee levied penalty of Rs.1,16,723/- for AY 2017-18 by order dated 28.06.2022 and Rs.1.50 lakhs for AY 2018-19 by order dated 17.08.2022.

3. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to confirm both the penalties.

4. Aggrieved, the assessee is in appeal before this Tribunal.



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5. We have heard both the parties and perused the material available on record. We find that the assessee had belatedly filed the return of income along with TAR for AY 2017-18 on 14.04.2018 and the Assessment Order u/s.143(3) of the Act was passed on 05.12.2019 for AY 2017-18, which means the TAR was filed well before the assessment was framed u/s.143(3) of the Act for AY 2017-18; similarly, for AY 2018-19, assessee had filed return of income along with TAR on 31.03.2019 and the Assessment Order u/s.143(3) of the Act was passed on 16.06.2020, which means, the TAR was available with the AO before the Assessment Order was framed for AY 2018-19. Thus, we find that the non-filing of the TAR before the 30.09.2017 (AY 2017-18) or before 30.09.2018 (AY 2018-19) were a technical breach; and undisputedly, the assessee filed the TAR along with the return of income on 14.04.2018 for AY 2017-18 and on 31.03.2019 for AY 2018-19 and that the assessment was framed by the AO only on 05.12.2019 for AY 2017-18 and on 16.06.2020 for AY 2018-19 on which date undisputedly TAR was very much available on the file of the AO. In such a scenario, the explanation of the assessee that the TAR was belatedly filed due to non-finalization of the accounts of the earlier year and not due to deliberate omission on the part of the assessee which on the peculiar facts of the case as explained by the assessee is found to be reasonable; and therefore, we are of the considered opinion that these are not fit cases for imposing penalty on



ITA Nos.542 & 543/Chny/2024 (AY 2017-18 & 2018-19)
Lakshmanan Nachammai

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the assessee and for such preposition, we rely on the decision of the Hon'ble Madras High Court in the case of P. Senthil Kumar v. CIT reported in (2019) 416 ITR 336 (Mad.)(HC)

6. In the result, both appeals filed by the assessee are allowed.

Order pronounced on the 25th day of June, 2024, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 25th June, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF