

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.671/Chny/2024
निर्धारण वर्ष/Assessment Year: 2016-17

Shri Dhevi Ramesh, 33, Pudupet Garden Street, Royapettah, Chennai-600 014.	v.	The ITO, Non-Corporate Ward-11(3), Chennai.
[PAN: ACMPD 1252 H]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri D. Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	05.07.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal 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 16.01.2024 for the Assessment Year (hereinafter in short 'AY') 2016-17.



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2. The main grievance of the assessee is against the action of the Ld.CIT(A)/NFACT confirming the penalty levied u/s.271B of the Income Tax Act, 1961 (hereinafter in short 'the Act').

3. The assessee, inter alia, has submitted that penalty order passed by the AO is barred by limitation as prescribed u/s.275(1)(c) of the Act. Since, it has been passed after six months from the end of the month in which the action for imposition of penalty is initiated.

4. It is noted that assessee an individual had filed her return of income (hereinafter in short 'RoI') of Rs.6,76,790/-. Later, the RoI was selected for scrutiny and the AO disallowed PF of Rs.3,55,167/- & agricultural income of Rs.74,340/- and assessed the total income of assessee at Rs.11,06,297/- by passing assessment order u/s.143(3) of the Act on 06.12.2018. Thereafter, the AO issued notice u/s.274 r.w.s.271B of the Act on 22.03.2021 and passed the penalty order on 21.03.2022. According to the assessee, the penalty order has been passed after the time limit prescribed u/s.275(1)(c) of the Act. For convenience, we will reproduce sec.275(1)(c) of the Act, which read as under:

Bar of limitation for imposing penalties

275. (1) No order imposing a penalty under this Chapter shall be passed—

(a)

(b).....



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(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

5. In this case, the assessment order u/s.143(3) of the Act was passed on 06.12.2018 and it is noted that there was no satisfaction recorded by the AO in the assessment order that assessee has violated sec.44AB of the Act i.e. assessee failed to get her accounts audited; and the AO didn't initiate any penalty proceedings in the assessment order u/s.271B of the Act for violating sec.44AB of the Act. And assessee didn't prefer any appeal against the assessment order dated 06.12.2018. So, it became final. Be that as it may be, thereafter, the AO issued notice after two (2) years and 3 months (approximately) i.e. dated 22.03.2021 alleging/proposing penalty u/s.271B of the Act and levied/imposed penalty on 21.03.2022. In the facts discussed (supra), the second limb of sec.275(1)(c) of the Act, is applicable i.e. the AO has to pass the penalty order within six months from the end of the month, in which, action for imposition of penalty is initiated. Since, the AO had initiated/issued penalty notice u/s.274 r.w.s.271B of the Act, on 22.03.2021, he was bound to pass the penalty on or before 30.09.2021. And since, the AO passed the impugned penalty order on 21.03.2022 (after 11 months), it is clearly time barred and the AO didn't had the jurisdiction to pass the



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penalty order. So, penalty is null in the eyes of law and therefore deleted.

6. All other grounds raised by the assessee are academic, so not adjudicated.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 05th day of July, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 05th July, 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