

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

1. आयकरअपील सं. ITA No.1581/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2018-19)
&
2. आयकरअपील सं. ITA No.1582/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)
&
3. आयकरअपील सं. ITA No.1583/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2016-17)

The Lalgudi Sivagnanam Agricultural Producers Co-op MKG Society Limited 171, Lalgudi, Tiruchirapalli-621 601.	बनाम/ Vs.	DCIT Circle-1(1) Trichy.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAAAT-0204-A		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri S. Sridhar (Advocate from Erode) - Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Ms. Kavitha (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/Date of Hearing	:	29-08-2024
घोषणा की तारीख /Date of Pronouncement	:	03-09-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by confirmation of penalty u/s 271B for Rs.1.50 Lacs in each of the captioned Assessment Years (AY), the assessee is in further appeals before us. The impugned orders have been passed by learned

Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 26-02-2024 in the matter of impugned penalty levied by Ld. Assessing Officer [AO] u/s. 271B of the Act vide separate orders all dated 16-06-2023. The facts leading to levy of penalty are quite identical in all the years. The registry has noted delay of 28 days in the appeals. Considering the period of delay and keeping in mind the principles of natural justice, the delay is condoned and we proceed with disposal of the appeals on merits.

2. In AY 2014-15, the impugned penalty has been levied in view of the fact that the assessee filed Tax Audit Report in Form No.3CB with a delay on 12-09-2015 as against due date of 30-11-2014. In defense, the assessee submitted that it was governed by Tamilnadu Cooperative Societies Act, 1983 and rules made there-under. The delay in filing the Audit Report was due to the fact that Final Audit Report audited by the cooperative Department got completed only on 16-04-2015 which led to delay in filing of Tax Audit Report. The completion of audit was beyond the control of the assessee as the matter related to appointment and completion of audit by the department. However, rejecting the same, Ld. AO levied penalty u/s 271B for Rs.1.50 Lacs. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

3. It is undisputed fact that the assessee is a cooperative society and subjected to department audit. The matter of appointment of auditor and completion of audit is beyond the control of the assessee. The assessee would not stand to gain anything by completing the audit with a delay. The assessee would be able to get Tax Audit Report only after finalization of financial accounts and completion of audit by the

department. In such a scenario, the explanation of the assessee is to be accepted as a reasonable cause.

4. The various decisions of Tribunal support the case of the assessee. The coordinate bench in the case of **M/s Balaji Logistics (ITA No.2248/Chny/2019 dated 07-09-2022)**, relied on another decision of Tribunal in M/s T.P.D. 101, Uthangarai Milk Producer Co-operative Society Ltd. (ITA No.152/Chny/2021 dated 29-06-2022) and held that when Tax Audit Report was made available to Ld. AO before completion of assessment proceedings then mere venial technical breach without any mala fide intention would not call for levy of penalty u/s 271B. Similar are the other decisions as placed on record. Therefore, by following the same, we delete the impugned penalty in all the three years and allow the appeals of the assessee.

5. All the appeals stand allowed.

Order pronounced on 3rd September, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 03-09-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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