

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1962/Del/2024
(Assessment Year: 2018-19)**

Aegis Value Homes Ltd,	Vs.	PCIT,
EF-10, 2 nd Floor, Inderpuri,		Delhi-1,
Delhi-110012		New Delhi
(Appellant)		(Respondent)
PAN:AAKCA6311M		

Assessee by :	None
Revenue by:	Mr. Javed Akhtar, CIR DR
Date of Hearing	14/11/2024
Date of pronouncement	26/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1962 /Del/2024 for AY 2018-19, arises out of the order of the Ld. PCIT-1, Delhi [hereinafter referred to as 'ld. PCIT', in short] in Appeal No. ITBA/REV/F/REV5/2023- 24/1063273290(1) dated 23.03.2024 against the order of assessment passed u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.04.2021 by the Assessing Officer, National e-Assessment, Delhi (hereinafter referred to as 'ld. AO').
2. The only effective issue to be decided in this appeal is as to whether the Learned PCIT was justified in invoking revisionary jurisdiction under section 263 of the Act by directing the Learned AO to levy penalty under section 271B of the Act in the facts and circumstances of the instant case.

3. None appeared on behalf of the assessee despite issuance of notice. Hence we proceed to dispose of this appeal by hearing the Learned DR and based on materials available on record.

4. It is a fact that tax audit report was furnished by the assessee before the Learned AO before the completion of assessment. Hence the tax audit report was indeed made available before the completion of assessment before the Learned AO. We hold that the tax audit report is only meant for providing guidance to the Learned AO to understand the various compliances made by the assessee under various provisions of the Act. Since the Tax Audit Report was indeed made available before the Learned AO by the assessee before the completion of assessment proceedings, the larger purpose of provisions of Section 44 AB read with Section 139 of the Act stood complied with and there is no need to levy penalty under Section 271B of the Act. In fact, similar issue was subject matter of adjudication by the Hon'ble Madras High Court in the case of CIT v. A N Arunachalam reported in 208 ITR 481 (Mad) wherein deduction under Section 80 J of the Act was granted by the Hon'ble Madras High Court which was denied by the revenue to that assessee for want of Audit Report in the prescribed form not filed along with the return of income. In that case, the Audit Report in the prescribed form for claiming deduction under Section 80 J of the Act was not filed along with the return of income, but filed during the course of assessment proceedings and made available to the Learned AO before the completion of assessment. The Hon'ble High Court held that filing of Audit Report during the course of assessment proceedings shall serve the purpose for which the provisions were enacted and hence the condition prescribed in Section 80J of the Act that Audit Report shall be filed along with the return of income had to be construed as directory in nature. Drawing analogy from the said decision and applying to the facts of the instant case, we hold that this is not a fit case for levy of penalty under

Section 271B of the Act. Hence, the Learned PCIT was not justified in invoking revision jurisdiction under Section 263 of the Act by directing the Learned AO to levy penalty under Section 271B of the Act. Accordingly, the invocation of revisionary jurisdiction under section 263 of the Act in the facts and circumstances of the instant case is not warranted and hence quashed. Accordingly, the grounds raised by the assessee are allowed.

5. Since the relief is granted on this preliminary aspect, the adjudication of other grounds raised by the assessee becomes academic in nature and hence they are left open.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26/11/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated: 26/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi