

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1854/Chny/2024
निर्धारण वर्ष/Assessment Year: 2015-16

The Lalgudi Sivagnanam - Agricultural Producers Co-op. Mkg. Society Ltd., 171, Lalgudi, Tiruchirapalli-621 601.	v.	The DCIT, Circle-1(1), Trichy.
[PAN: AAAAT 0204 A]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R.Anita, Addl. CIT
सुनवाईकीतारीख/Date of Hearing	:	26.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	04.12.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee society against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 26.02.2022 for the Assessment Year (hereinafter in short "AY") 2015-16.



:: 2 ::

2. At the outset, the Ld. Counsel for the assessee submitted that due to reasons beyond its control, there is a delay of '69' days in filing of this appeal. Having noted the relevant materials placed before us, we are of the opinion that assessee was prevented by sufficient cause in filing the appeal on-time; and hence, we condone the delay of '69' days and proceed to adjudicate the appeal on merits.

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

4. The brief facts are that the AO has levied the penalty u/s.271B of the Act, since the assessee filed the Tax Audit Report [TAR] in Form No.3CB belatedly after the due date [i.e. on 31.10.2015 relevant for AY 2014-15]. Show cause notice was issued before levy of penalty u/s.271B on 26.03.2022 [after almost five (5) years] wherein, according to the AO, the assessee ought to have filed the Audit Report/TAR within the due date as prescribed u/s.44AB of the Act on or before 31.10.2015, and since the assessee failed to satisfy the statutory requirement, he asked assessee, as to why penalty u/s.271B of the Act should not be levied. Pursuant to which assessee, explained the reason for the cause of delay in filing of Audit Report, wherein it stated that it was governed by the Tamil Nadu Cooperative Societies Act, 1983 and therefore, it had to undergo statutory



:: 3 ::

audit by the State Co-operative Department and in that process viz. audit got completed only on 18.02.2016 which ultimately led to filing of Tax Audit Report belatedly before the Income Tax Authority. Thus the assessee asserted that belated filing of Audit Report was beyond its control and because the statutory audit had to be conducted by the Government/Co-operative Department delay occurred. However, the AO didn't accept the plea of the assessee and levied a penalty of Rs.1.50 lakhs. On appeal, the Ld.CIT(A) confirmed the same also taking note of certain amendments made in Tamil Nadu Cooperative Societies Act, which stipulates that audit had to be completed within six months from the end of the 'co-operative year' which is from 1st July to 30th June as against the financial year as per the Act from 1st April to 31st March. The assessee aggrieved by the action of the Ld.CIT(A) is before us.

5. We have heard both the parties and perused the material available on record. We note that the assessee is a cooperative society and subjected to departmental statutory audit as noted supra. Therefore, statutory audit had to be carried out by the Department (Cooperative Department by Tamil Nadu Government) and obviously the assessee has no control over them. Consequently, if the State Government audit is delayed, naturally the assessee's audit would be delayed. And it can't be presumed that omission to file Tax Audit Report within the due date as prescribed by the Act was deliberate and the assessee has brought to the



ITA No.1854/Chny/2024 (AY 2015-16)
The Lalgudi Sivagnanam Agricultural -
Producers Co-op. Mkg. Society Ltd.

:: 4 ::

notice of the AO/Ld.CIT(A) that State Government Audit was over only on 18.02.2016, which assertion couldn't be contradicted by both authorities. In such a scenario, assessee's explanation for belatedly filing the audit-report is accepted as reasonable cause for delay in filing the same u/s.273B of the Act and by also relying on the decision of this Tribunal in the case of M/s.Balaji Logistics (ITA No.2248/Chny/2019 dated 07.09.2022). In the light of the discussion, we delete the penalty levied u/s.271B of the Act.

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

Order pronounced on the 04th day of December, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

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

चेन्नई/Chennai,
दिनांक/Dated: 04th December, 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