

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI (SMC) BENCH, NEW DELHI**

BEFORESHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No.2968/Del/2023
Assessment Year: 2018-19

Ram Lakhan, 8/39, Industrial Area, Kirti Nagar, New Delhi, Delhi.	Vs.	DCIT, Central Circle-17, Delhi
PAN : AFYPR1596R		
(Appellant)		(Respondent)

Assessee by	Sh. Paritosh Jain, Advocate
Department by	Sh. Siddharth B.S. Meena, Sr. DR

Date of hearing	18.12.2024
Date of pronouncement	18.12.2024

ORDER

This assessee's appeal for assessment year 2018-19, arises against the Commissioner of Income Tax (Appeals)-27 [in short, the "CIT(A)"], New Delhi's order dated 29.08.2023 involving penalty proceedings under section 271B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.
3. It emerges during the course of hearing that both the ld. lower authorities have levied 271B penalty of Rs.1,27,102/- on

account of the fact that the assessee had failed to get his books audited as prescribed in the statute.

4. Learned counsel strongly argues that the assessee is not required to get his books audited once he had opted for presumptive assessment u/s. 44AE of the Act being a transporter. The Revenue's contention is that section 44AE applies only in an instance wherein the concerned assessee does not own more than ten goods carriages. Shri Meena invites my attention to assessee's 133A statement dated 06.02.2018 (para-4.6 in the lower appellate findings), wherein he had duly admitted the ownership of eleven such vehicles.

5. Mr. Jain, on the other hand, submits that the assessee's survey statements had been recorded under duress, which is not admissible in law as per CBDT Circular F.No. 286/Z/2003-IT(Inv) dated 10th March, 2003.

6. I have gone through the record and after considering rival submissions, find merit in the Revenue's stand. It is for the precise reason that the assessee even has disclosed his vehicle numbers during the survey, which remained un-rebutted till date. No benefit would be admissible to him for presumptive

assessment scheme u/s. 44AE of the Act therefore, so as to exonerate him from rigor of the impugned penalty u/s. 271B of the Act. I confirm the penalty in this factual backdrop.

7. This assessee's appeal is dismissed.

Order pronounced in the open court on 18th December, 2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 18 December, 2024.

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi