

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

BEFORESHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA Nos.3673 & 3674/Del/2024
Assessment Year: 2012-13

With

ITA Nos.3677, 3678 & 3679/Del/2024
Assessment Years: 2015-16, 2016-17 & 2017-18

Atiq Ahmed, House No. 333, Bhamda Patti, Patthar Wala Kaun, Hapur, U.P.	Vs.	Income-tax Officer, Ward 2(3)(4), Hapur
PAN : AIFPA8796G		
(Appellant)		(Respondent)

Assessee by	Sh. K.M. Gupta, Advocate
Department by	Sh. Sahil Kumar Bansal, Sr. DR

Date of hearing	23.12.2024
Date of pronouncement	23.12.2024

ORDER

The instant batch of five cases involves single assessee herein, namely, Atiq Ahmed. All other relevant details thereof stand tabulated as under:

Sl. No.	Appeal No.	Appellant	Respondent	Order Appealed against
1.	3673/Del/2024 for A.Y. 2012-13	Atiq Ahmed	Income-tax Officer, Ward 2(3)(4), Hapur	CIT(A)-NFAC Delhi's DIN and Order No. ITBA/NFAC/S/250/2024- 25/1065767179(1), dated 19.06.2024, involving proceedings under section 271(1)(c).
2.	3674/Del/2024 for A.Y. 2012-13	Atiq Ahmed	Income-tax Officer, Ward 2(3)(4), Hapur	CIT(A)-NFAC Delhi's DIN and Order No. ITBA/NFAC/S/250/2024- 25/1065768563(1), dated

				19.06.2024, involving proceedings under section 271B.
3.	3677/Del/2024 for A.Y. 2015-16	Atiq Ahmed	Income-tax Officer, Ward 2(3)(4), Hapur	CIT(A)-NFAC Delhi's DIN and Order No. ITBA/NFAC/S/250/2024-25/1065762292(1), dated 19.06.2024, involving proceedings under section 147 r.w.s. 144.
4.	3678/Del/2024 for A.Y. 2016-17	Atiq Ahmed	Income-tax Officer, Ward 2(3)(4), Hapur	CIT(A)-NFAC Delhi's DIN and Order No. ITBA/NFAC/S/250/2024-25/1065760447(1), dated 19.06.2024, involving proceedings under section 147 r.w.s. 144.
5.	3679/Del/2024 for A.Y. 2017-18	Atiq Ahmed	Income-tax Officer, Ward 2(3)(4), Hapur	CIT(A)-NFAC Delhi's DIN and Order No. ITBA/NFAC/S/250/2024-25/1065758480(1), dated 19.06.2024, involving proceedings under section 147 r.w.s. 144.

2. Heard both the parties at length. Case files perused.

3. I now advert to assessee's lead assessment year 2012-13 wherein he is aggrieved against the action of learned lower authorities levying sections 271(1)(c) and 271B proceedings imposing penalties of Rs.63,900/- and 1,50,000/-, on account of concealment and furnishing of inaccurate particulars thereof and for non-filing of tax audit report, respectively.

4. The Revenue could hardly dispute in assessee's 271(1)(c) penalty appeal that the learned Assessing Officer had re-estimated his net profits @ 0.7% and therefore, going by CIT vs. Reliance

Petroproducts (2010) 322 ITR 158 (SC), I delete the impugned penalty levied against the appellant and allow his case ITA No. 3673/Del/2024 in very terms as it is not each and every quantum addition which would attract the instant penal provision.

5. Coming to assessee's second appeal ITA No. 3674/Del/2024 seeking to reverse section 271B penalty of Rs.1,50,000/-, imposed by learned lower authorities, it is noticed from the perusal of the assessment order itself dated 31.12.2019 that he had duly filed his belated tax audit report and therefore, it is an instance of delayed filing of tax audit report than that of non-filing thereof. I accordingly accept the assessee's explanation stating the delay in filing of tax audit report on account of circumstances beyond its control and delete the penalty u/s. 271B amounting to Rs.1,50,000/-. This case ITA No. 3674/Del/2024 is allowed.

6. I now come to the assessee's remaining three identical appeals in ITA Nos. 3677 to 3679/Del/2024 for assessment years 2015-16 to 2017-18 respectively wherein learned lower authorities have disallowed 10% of his meat purchases as non-genuine.

7. After vehement arguing on assessee's legal grounds challenging validity of reopening proceedings, learned counsel does not press this issue. Rejected accordingly.

8. I now proceed to deal with the instant identical issue in all these three appeals wherein learned lower authorities have disallowed 10% of the purchases as non-genuine. It emerges that neither the assessee has been able to satisfactorily discharge his onus to proving genuineness of impugned meat purchases nor the department could pin point any specific defect therein. Faced with this situation, I hold that an estimated disallowance to Rs.1,00,000/- each in all these three appeals would be just and proper with a rider that the same shall not be treated as a precedent. Ordered accordingly. Necessary computations shall follow.

9. This assessee's appeals Nos. 3673 & 3674/Del/2024 are allowed and his remaining three appeals Nos. 3677 to 2679/Del/2024 are partly allowed in above terms. A copy of this common order be placed in the respective files.

Order pronounced in the open court on 23rd December, 2024

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 23 December, 2024.