

IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, PUNE

**SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

ITA No. 576/PUN/2019 : A.Y. 2014-15

Swaminath N. Patil
Baswesher Market Yard,
Station Road, Akkalkot,
Dist. Solapur
PAN: APKPP 5662 E

Appellant

Vs.

The Ward 2(5) Solapur

Respondent

Appellant by : None
Respondent by : Shri Suhas Dabade

Date of Hearing : 13-05-2022
Date of Pronouncement : 06-06-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

This appeal preferred by the assessee emanates from order of the Id. Commissioner of Income Tax (Appeals)- 7, Pune, dated 08-01-2019 for A.Y. 2014-15 as per the grounds of appeal on record.

2. None appeared on behalf of the assessee. The submissions of the Id. D.R are recorded and the case is heard on merits as per the relevant materials and records.

3. The assessee is engaged in the wholesale trading of food grains as a proprietary concern under the name and style "Swaminath Nilkanth Patil" at Akkalkot. That on perusal of the grounds of appeal filed by the assessee, the only grievance in this appeal is imposition of penalty u/s 271B of the Income-tax Act, 1961 (hereinafter referred to as the "Act"). The assessee had e-filed return of income on 28-01-2015 declaring total income of Rs. 6,33,380/- . The case was selected for scrutiny under CASS and the assessment was completed u/s 143(3) of the Act assessing total income at Rs. 9,54,780/- vide

order dated 29-7-2016. The A.O also noticed that the assessee had failed to file audit report within the prescribed date i.e. on or before 30-11-2014 (extended period) and had updated the audit report only on 22-01-2015. That accordingly, the A.O had imposed penalty u/s 271B of the Act for non-compliance of the provisions of sec. 44AB of the Act. That during the appellate proceedings before the Id. CIT(A) the assessee had explained the reasons for delay in filing the audit report. He has stated that the accountant who was looking into the records of accounts was admitted in the hospital and even the Doctor's certificate was also enclosed and submitted as evidence. It was also explained that practically it was difficult to get an experienced accountant within the short period of time in a place like Akkalkot, Dist. Solapur. Therefore, the entire events and circumstances were beyond the control of the assessee and he was helpless and for such reasons delay occurred which was never deliberate nor intentional. The Id. CIT(A) however, as per the reasons appearing at para 6 of his order did not support the submissions of the assessee and upheld the levy of penalty imposed by the A.O u/s 271B of the Act.

4. That on going through the entire case records, we find that the assessee has reasonably well explained before the Id. CIT(A) the reasons why there was delay in filing the tax audit report and non-compliance as per the provisions of sec. 44AB of the Act. The reasons are definitely such that they were beyond the control of the assessee and since the Income-tax Act is a welfare legislation the practical difficulties of the tax payers assessee and the bonafide nature has to be considered. In this case, the assessee had even submitted the Doctor's Certificate under whose treatment the accountant was admitted in the hospital. The Id. CIT(A) should have considered all these facts in its proper perspective. Section 273B of the Act provides that the penalty u/s 271B need not be

imposed if there is a reasonable cause for the said failure. In our considered view, the assessee in this case through documentary evidence has explained the reasonable cause and accordingly we set aside the order of the CIT(A) and direct the A.O to delete the penalty from the hands of the assessee.

5. In the result, the **appeal of the assessee is allowed.**

Order pronounced in the open Court on this 06th day of June 2022

Sd/-
(R.S. SYAL)
VICE PRESIDENT

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, the 06th day of June 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CCIT 6, Pune
4. The CIT(A)- 7 Pune
5. D.R. ITAT 'B' Bench
5. Guard File

BY ORDER,

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Sr. Private Secretary
ITAT, Pune.

1	Draft dictated on	13-05-2022	Sr.PS/PS
2	Draft placed before author	30-05-2022	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	06-06-2022	Sr.PS/PS
7	Date of uploading of order	06-06-2022	Sr.PS/PS
8	File sent to Bench Clerk	06-06-2022	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		