

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.3873/CHNY/2025

(निर्धारण वर्ष / Assessment Year: 2017-18)

<b>Konda Seenivasaiyer Damodharan Kishori Lal,</b> No.17 & 18, kakathoppu Street, Madurai – 625 001.	vs.	<b>The Deputy Commissioner of Income Tax,</b> Non-Corporate Circle - 2, Madurai.
<b>[PAN:AFBPK-6965-J]</b> (अपीलार्थी/Appellant)		)प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. B. Ramakrishnan, F.C.A.  
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam,  
Addl. CIT

सुनवाई की तारीख/Date of Hearing : 18.02.2026  
घोषणा की तारीख/Date of Pronouncement : 17.03.2026

**आदेश / O R D E R**

**PER S.R. RAGHUNATHA, AM:**

This appeal by the assessee is arising out of the order dated 24.10.2025, passed by the Learned Commissioner of Income Tax (Appeal), NFAC, Delhi (in short "Id.CIT(A)") for the assessment year (A.Y) 2017-18 against the order u/s.271B of the Income Tax Act, 1961 (hereinafter the 'Act') passed by the AO dated 18.02.2022.

2. Brief facts of the case are that the assessee is an individual, engaged in the wholesale business of poly trading and has filed his return of income on 25.12.2017 for A.Y.2017-18, by admitting a total income of Rs.30,29,350/-. Subsequently, the case was selected for scrutiny under CASS to examine the issue of cash deposits during the demonetization period. During the assessment proceedings the AO accepted the return of income and concluded the assessment u/s.143(3) of the Act dated 18.12.2019. Later, the AO noticed that the assessee had not filed tax audit report, though the assessee's turnover limit was Rs.16,29,81,133/- for the A.Y.2017-18, however the AO initiated penalty proceedings u/s.271B of the Act dated 24.01.2022. During the penalty proceedings, the assessee submitted that the tax audit report u/s.44AB of the Act completed on 28.10.2017 and could not file within due date due to technical glitches while uploading of the report, hence he has uploaded the audit report on 25.12.2017. However, the AO was not convinced and levied penalty of Rs.1,50,000/- (being lesser than one half percent of the turnover of Rs.16,29,81,133/-) and concluded the penalty proceedings by passing penalty order dated 18.02.2022 u/s.271B of the Act.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the Id.CIT(A), NFAC, Delhi on 14.01.2023 with a delay in filing the appeal.

4. At the outset, we observed that the Id.CIT(A) dismissed the appeal filed by the assessee due to delay in filing the appeal by 300 days. Aggrieved by the impugned order of the Ld.CIT(A), the assessee is in appeal before us.

5. The Id.AR submitted that the Id.CIT(A) has not considered the reason for the technical glitches faced by the assessee's auditor while uploading the audit report and its cascading effect caused delay in filing the audit report in

time. Further, the Id.AR submitted that the Id.CIT(A) has not considered the audit report filed on 25.12.2017, which was much before the completion of assessment u/s.143(3) of the Act dated 18.12.2019. Further, the Id.AR submitted the dates and events of the return, report, notices and orders passed during the hearing. The original notice for penalty proceedings was issued on 24.01.2022 and again on 28.09.2022 and the assessee had promptly filed its submissions before the AO. However, on verification with the AO about the status of notice issued on 24.01.2022, the AO informed the assessee that the penalty order has already been passed on 18.02.2022 by levying the penalty of Rs.1,50,000/-. Therefore, the assessee became aware of the order only when another SCN dated 28.09.2022 was received. Therefore, the Id.AR prayed for condoning the delay in filing the appeal before the Id.CIT(A) and delete the penalty as the assessee had already filed the audit report before even issuing notice u/s.143(2) for scrutiny assessment. Further, the Id.AR relied on the decision of the coordinate bench of Chennai Tribunal in the case of Vellakovil Primary Agricultural Cooperative Bank Ltd. Vs. ITO [2024] 160 taxmann.com 1125 (Chennai Trib.) dated 23.06.2023 (ITA No.49 to 53/Chny/2023).

6. Per contra, the Id.DR submitted that the assessee has not shown the reasonable cause for delay in filing the Tax audit report u/s.44AB of the Act beyond the due date and hence prayed for confirming the order of the Id.CIT(A).

7. We have heard the rival parties and perused the material available on record and gone through the orders of the lower authorities and the case laws relied on. We note that the Assessing Officer has levied penalty for non-filing of tax audit report within the time prescribed u/s.44AB of the Act.

8. At the outset, it is observed that the Id. CIT(A) dismissed the appeal of the assessee solely on the ground of delay of 300 days in filing the appeal, without adjudicating the issue on merits. From the facts placed before us, it is evident that the penalty order u/s 271B was passed on 18.02.2022. The assessee contended that it was not aware of the penalty order at the relevant time and the assessee became aware of the penalty only upon receipt of a subsequent show cause notice dated 28.09.2022 issued for the same penalty proceedings erroneously by the AO. Immediately thereafter, the assessee took steps to file the appeal before the Id.CIT(A). The explanation furnished by the assessee indicates that the delay was not deliberate but occurred due to lack of proper communication/knowledge of the penalty order. It is a settled principle of law that substantial justice should prevail over technical considerations, and when reasonable cause is shown, delay deserves to be condoned. In this regard, we note that the Id. CIT(A) has not examined the explanation of the assessee in proper perspective, nor recorded any finding as to why the explanation was not acceptable. Accordingly, considering the facts and circumstances of the case, we are of the considered view that the assessee has demonstrated sufficient and reasonable cause for delay. Therefore, the delay in filing the appeal deserves to be condoned.

9. On the issue of levy of penalty u/s.271B of the Act, it is an admitted fact that the assessee was liable to get its accounts audited u/s.44AB of the Act, as the turnover exceeded the prescribed limit. It is also undisputed that the audit was completed on 28.10.2017 within the prescribed due date. The only lapse on the part of the assessee is the delay in uploading the audit report, which was eventually filed on 25.12.2017. The explanation offered by the assessee is that such delay occurred due to technical glitches in the e-filing portal.

10. The Tribunal finds merit in the explanation of the assessee. The completion of audit within the due date demonstrates that the assessee had substantially complied with the provisions of section 44AB of the Act. The delay was only in uploading the report, which is procedural in nature. In the present digital environment, technical glitches in uploading documents cannot be ruled out and constitute a reasonable cause when supported by surrounding facts.

11. Further, it is significant to note that the audit report was filed well before the completion of assessment u/s.143(3) of the Act on 18.12.2019. The AO had the benefit of examining the audit report during the scrutiny proceedings and ultimately accepted the returned income. Thus, no prejudice has been caused to the Revenue on account of the delay.

12. At this stage, it is relevant to refer to the decision of the Chennai Bench of the Tribunal in *Vellakovil Primary Agricultural Cooperative Bank Ltd. vs. ITO*, (supra) wherein under similar circumstances it was held that when the audit is completed within time and the delay in filing the report is due to technical reasons, the same constitutes a reasonable cause u/s.273B of the Act and penalty u/s.271B is not leviable. Further, we also find that the Tribunal while deciding the issue in favour of the assessee, considered the decision of the co-ordinate bench of Chennai Tribunal in the case of *Balaji Logistics V.ACIT [2023] 147 taxmann.com 607 (ITA No.2248/Chny/2019 dated 07.09.2022 for the A.Y.2015-16*. Therefore, the ratio laid down in the said decision squarely applies to the facts of the present case.

13. In view of the above discussion, the Tribunal is of the considered opinion that the assessee has established reasonable cause for the delay in filing the tax audit report within the meaning of section 273B of the Act. The

default, if any, is technical and venial in nature and does not warrant imposition of penalty. Accordingly, the penalty of Rs.1,50,000/- levied under section 271B is deleted.

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

Order pronounced in the open court on 17<sup>th</sup> March, 2026 at Chennai.

**Sd/-**  
(एस एस विश्वनेत्र रवि)  
**(S.S. VISWANETHRA RAVI)**  
न्यायिक सदस्य/**Judicial Member**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S.R.RAGHUNATHA)**  
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 17<sup>th</sup> March, 2026

**sp**

**आदेश की प्रतिलिपि अग्रेषित/Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF