



ITAT upheld commission agent's bona fide belief on non-applicability of Section 44A as reasonable cause to delete penalty proceedings u/s 271B

Mohammad Daud [TS-276-ITAT-2023(DEL)]

Delhi, May 27, 2023

In the present case the penalty was imposed on Assessee u/s 271B for not auditing the accounts as per section 44AB. Assessee contended that it is his first year working as a commission agent supplying milk on behalf of 'Amul Milk' and since it was his first year of business, he was under the belief that section 44AB was inapplicable. The revenue did not consider the contention of Assessee and the appeal of Assessee was rejected by the CIT(A). Thus, the present appeal was filed by Assessee before the Hon'ble ITAT of Delhi.

The Hon'ble ITAT of Delhi in the above-captioned matter passed the order by which the Hon'ble Court decided as follows: -

It was held that the explanation offered by the Assessee that he was under the bona fide belief that the applicability of section 44AB is not attracted in his case constitutes 'reasonable cause' u/s 273B and the revenue failed to consider the same. Hence, the Assessee is eligible to the protection envisaged under section 273B of the Act for "reasonable cause". Also, the penalty proceeding initiated u/s 271B is unsustainable and are set aside.

**Section 44AB provides If turnover exceeds 1 cr, books of accounts are to be maintained and the same have to be audited by a Chartered Accountant.*

**Section 271B provides for penalty If any person fails to get his accounts audited or failed to furnish a report of such audit as required u/s 44AB.*

**Section 273B provides if the assessee proves that there was reasonable cause for any failure, no penalty shall be imposable on the person or the assessee.*

