

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री गगन गोयल, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No: **1396/CHNY/2026**

निर्धारण वर्ष/Assessment Year: 2018-19

Stargate Enterprises Pvt. Ltd.,
No.9, Cathedral Road,
Chennai – 600 086.

PAN: AAACS 9436K

(अपीलार्थी/Appellant)

**The Deputy Commissioner
of Income Tax,**
Vs. Corporate Circle 3(1),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri Beesam Narasing Rao, JCIT

सुनवाई की तारीख/Date of Hearing : 24.06.2026

घोषणा की तारीख/Date of Pronouncement : 25.06.2026

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 16.01.2026 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.



2. Brief facts of the case are as follows: The assessee is a company. For the assessment year 2018-19, it filed its return of income on 27.09.2018 declaring a total income of Rs.12,00,22,760/-. The return was processed under section 143(1) of the Act by the CPC vide intimation dated 16.10.2019, wherein the total income was determined at Rs.15,35,25,960/-. Subsequently, the case was selected for scrutiny and notice under section 143(2) of the Act was issued on 22.09.2019. The case was selected for scrutiny primarily to verify the issue relating to non-furnishing of the tax audit report. During the course of assessment proceedings, the AO called upon the assessee to explain the reasons for not furnishing the audit report as required under section 44AB of the Act. In response, the assessee contended that it had not earned any business income and, therefore, the provisions of section 44AB of the Act were not applicable. The assessment was thereafter completed u/s. 143(3) read with sections 143(3A) and 143(3B) of the Act vide order dated 18.03.2021, determining the total income at Rs.15,35,25,960/-, being the same income as assessed in the intimation issued u/s. 143(1) of the Act. However, in the assessment order, the AO held that the interest income of Rs.11,84,66,453/-, which had been offered by the assessee under



the head "Income from Other Sources", was liable to be assessed as "Business Income". Consequent to such finding, the AO concluded that the assessee was required to obtain and furnish a tax audit report under section 44AB of the Act and accordingly initiated penalty proceedings u/s. 271B of the Act. Thereafter, vide order dated 16.03.2022, the Assessing Officer levied a penalty of Rs.1,50,000/- u/s. 271B of the Act for failure to furnish the audit report as prescribed u/s. 44AB of the Act.

3. Aggrieved by the penalty order passed u/s. 271B of the Act, the assessee preferred an appeal before the First Appellate Authority (FAA). The FAA, after referring to the provisions of section 44AB of the Act, held that the assessee was statutorily required to obtain and furnish the tax audit report within the prescribed time. Since the assessee had failed to comply with the said requirement, the FAA upheld the levy of penalty u/s. 271B of the Act. The FAA further observed that the assessee had not established the existence of any reasonable cause within the meaning of section 273B of the Act so as to warrant waiver of the penalty and accordingly, confirmed the penalty imposed by the AO.



4. Aggrieved by the order of the FAA, assessee has filed the present appeal before the Tribunal raising the following grounds:-

1. The learned Commissioner of Income Tax (Appeals), (National Face Less Appeal Centre (NFAC), Delhi (hereinafter known as "CIT(A) NFAC"), erred in confirming the Penalty of Rs.1,50,000/-imposed by the AO U/s 271B for non-conducting of tax audit U/s 44AB.

2. The learned "CIT(A) NFAC" erred in concluding that interest earned from Bank Deposits of Rs.11,84,66,453/-, constitute Business Income and hence should have been subject to Tax Audit under Section 44AB.

3. The learned "CIT(A) NFAC" ought to have appreciated that interest on Bank Deposit is not a business activity. The Appellant relies on the decision of the Delhi High court in the case of CIT Vs Shriram Honda Power Equipment 289 ITR 475 wherein it was held that when surplus funds are invested in fixed deposits, the interest income was to be considered as "Income from Other Sources only. Reliance is also placed on the decision of Supreme Court in the case of CIT Vs Dr VP Gopinath (248 ITR 449).

4. The learned "CIT(A) NFAC" erred in not appreciating the stand that even the learned Assessing Officer, in Appellant's case while computing the taxable income, in the Income computation Sheet treated the interest on Fixed Deposits of Rs.11.84.66.453/- as "Income from Other Sources only"

5. As interest on deposit will be assessed as "income from Other Sources" and not under the head "Income from Business or Profession". Tax Audit under Section 44AB is not applicable and hence levy pf penalty U/s 271B is not tenable.

5. The Ld. AR, apart from relying on the grounds of appeal, submitted that for the assessment years 2015-16, 2016-17, 2019-20 and 2020-21, the assessee had consistently offered the interest earned on bank deposits under the head "Income from



Other Sources" and the same had been accepted by the Department in the intimations issued u/s.143(1) of the Act. It was submitted that in the impugned assessment year, during the course of scrutiny assessment proceedings, the Assessing Officer treated the interest income of Rs.11,84,66,453/- earned on bank deposits as "Business Income" instead of "Income from Other Sources". The Ld. AR further submitted that the reclassification of the income from one head to another did not result in any variation in the taxable income of the assessee and, therefore, no appeal was preferred against the assessment order on this issue. However, it was only because of the AO's action in treating the interest income as business income that the assessee was considered liable to obtain and furnish a tax audit report u/s. 44AB of the Act, resulting in the initiation of penalty proceedings u/s.271B of the Act. The Ld. AR contended that the assessee had been consistently declaring such interest income as "Income from Other Sources" in the preceding as well as subsequent assessment years and the same had been accepted by the Department. In these circumstances, the assessee entertained a bona fide belief that the provisions of section 44AB were not applicable and, consequently, no tax audit was required to be conducted for the year under consideration. It was therefore



submitted that the assessee's failure to obtain the tax audit report was neither deliberate nor wilful but was occasioned by a bona fide belief arising from the consistent treatment accepted by the Department in other years. Accordingly, the Ld. AR submitted that the aforesaid facts constituted a reasonable cause within the meaning of section 273B of the Act and, therefore, no penalty u/s. 271B was exigible. The Ld. AR accordingly prayed that the penalty levied u/s.271B of the Act be deleted.

6. The Ld.DR supported the orders of the AO and the FAA.

7. We have heard the rival submissions and perused the materials available on record. It is an undisputed fact that in the preceding assessment years as well as in the subsequent assessment years, the assessee had consistently disclosed the interest earned on bank deposits under the head "Income from Other Sources" and the same had been accepted by the Department in the intimations issued u/s.143(1) of the Act. It is also not in dispute that in the year under consideration, the AO, during the scrutiny assessment proceedings, treated such interest income as "Business Income", which consequently led to the conclusion that the assessee was liable to obtain a tax audit



report u/s. 44AB of the Act. We find merit in the contention of the assessee that the consistent treatment accorded to the interest income in the earlier and subsequent years gave rise to a bona fide belief that the said income was assessable under the head "Income from Other Sources" and that the provisions of section 44AB were not attracted. The Revenue has not brought any material on record to establish that the assessee had deliberately or consciously failed to comply with the provisions of section 44AB of the Act. On the contrary, the conduct of the assessee demonstrates that the failure to obtain the tax audit report arose on account of a genuine and bona fide understanding of the tax position based on the treatment consistently accepted by the Department in other years.

8. Section 273B of the Act provides that no penalty shall be imposable where the assessee proves that there was reasonable cause for the failure. In the facts of the present case, we are satisfied that the assessee was prevented by a reasonable cause from complying with the requirement of obtaining the tax audit report u/s.44AB of the Act. The bona fide belief entertained by the assessee, founded upon the consistent acceptance by the Department of the interest income under the head "Income from



Other Sources" in the earlier and subsequent years, constitutes a reasonable cause within the meaning of section 273B of the Act. Therefore, the levy of penalty u/s.271B is not sustainable. Accordingly, we direct the AO to delete the penalty levied u/s.271B of the Act and allow the grounds raised by the assessee.

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

Order pronounced in the open court on 25th June,2026 at Chennai.

Sd/-

(गगन गोयल)

(GAGAN GOYAL)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 25th June, 2026

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

RSR, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

By Order