

IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA “DB” BENCH
(VIRTUAL HEARING AT KOLKATA)

BEFORE
SHRI DUVVURU RL REDDY, VICE-PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.437/PAT/2025
Assessment Year: 2018-19

Bihar Industrial Area Development Authority 1 st Floor, Udyog Bhawan, Patna Gandhi Maidan, Patna-800004 [PAN: AAIFB2859C]		Vs.	National e-Assessment Centre, Delhi
APPELLANT			RESPONDENT
Appellant by	:	Shri A.K. Rastogi, AR	
Respondent by	:	Shri Ravi Kant Chowdhary, Sr. DR	
Date of hearing	:	28.07.2026	
Date of Pronouncement	:	31.08.2026	

ORDER

PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER:

This Appeal is filed by the Assessee against the order of the NFAC, Delhi [“the Ld. CIT(A)”, for short], dated 31.07.2025 passed u/s 250 of the Income Tax Act, 1961 (“the Act”, for short) for the assessment year 2018-19.

2. Brief facts on record are that, the assessee filed its return of income for the assessment year 2018-19, declaring total income as NIL. The case was selected for scrutiny and the assessment u/s 143(3) of the Act was completed on 27.03.2021, accepting the returned loss. During the assessment proceedings, the Assessing Officer noted that the assessee has gross turnover to the tune of Rs.23.23 crore and had



failed to get its accounts audited and file the tax Audit Report as required u/s 44AB of the Act. Therefore, penalty proceedings u/s 271B of the Act was initiated. Subsequently, the Assessing Officer issued a show cause notice calling upon the assessee to explain why penalty u/s 271B of the Act should not be levied for non-compliance to the provisions of section 44AB of the Act, in failing to get the Books of account audited and submit the Audit Report within the specified date. The assessee responded stating that the assessee was prevented by sufficient and reasonable cause in not obtaining the Audit Report for the said year and also contended that as there was no difficulty in computing the income on the basis of unaudited final accounts submitted by the assessee and as no loss was caused to the Revenue for not getting the account audited, the penalty is not exigible. The assessee relied on the decision of Hon'ble ITAT, Patna Bench in the case of M/s Bihar State Forest Development Corporation, Patna Vs. DCIT, Special Range, Patna in ITA No.636 & 637/Pat/1997 dated 12.05.2000 in support of its plea. The Assessing Officer found that the assessee has not demonstrated any reasonable cause for not complying with the statutory obligation and hence held that the assessee is liable for imposition of penalty u/s 271B of the Act and proceeded to levy the impugned penalty of Rs.1,50,000/- vide order dated 25.01.2022.



3. As against the said order, the assessee preferred an appeal before the Ld. CIT(A) and argued that the levy of penalty was not justified. Before the Ld. CIT(A) also, the assessee relied on the decision rendered by the Hon'ble ITAT, Patna Bench in the case of M/s Bihar State Forest Development Corporation, Patna (supra). The Ld. CIT(A) rejected the plea that the penalty is not leviable as no addition was made to the total income and dismissed the assessee's appeal, as it found that the assessee has not shown any reasonable cause with any documentary evidence. The Ld. CIT(A) also relied on the decision of the Hon'ble Kerala High Court in the case of River View Bar and Silver Restaurant Vs. CIT [2011] 15 taxmann.com 84 Kerala, while rejecting the assessee's plea and appeal.

4. Aggrieved from the order of the Ld. CIT(A), this appeal has been preferred before us. The Learned Counsel for the assessee argued that no addition was made to the total income returned during the assessment proceedings, and as there was no loss caused to the Revenue, the penalty is not exigible for mere technical breach. In support, the Ld. AR relied on the decision of the Hon'ble ITAT Patna Bench in the case of M/s Bihar State Forest Development Corporation, Patna (supra) and argued that the said decision squarely applies to the facts of the assessee's case. The Ld. AR also filed written submissions and argued that the Ld. CIT(A) was wrong in relying on



the decision of the Hon'ble Kerala High Court in the case of River View Bar and Silver Restaurant (supra) as it is not applicable to the facts of the assessee's case.

5. The Ld. DR submitted that the assessee failed to comply with the requirements of section 44AB of the Act and failed to get its books of account audited and failed to submit the Audit Report as required u/s 44AB of the Act, therefore, the Assessing Officer is justified in levying the impugned penalty u/s 271B of the Act. The Ld. DR also submitted that the assessee has not shown any reasonable cause before the Ld. CIT(A) also, and sought for dismissal of the appeal.

6. We have heard the parties and perused the material available on record. It is not in dispute that the assessee is required to get its books of account audited and file the Tax Audit Report within the specified date as required u/s 44AB of the Act. It is also not in dispute that the assessee failed to get its books of account audited and furnish the tax audit report for the year, before the Assessing Officer or the Ld. CIT(A). As per section 271B of the Act, if any person fails to get his accounts audited in respect of any previous year or year relevant to an assessment year or furnish a report of such audit as required u/s 44AB of the Act, the Assessing Officer may direct such person to pay penalty as specified in that provision. However, section 273B of the Act provides that, 'notwithstanding anything contained in the



provisions of section 271B of the Act, no penalty shall be imposable on the person, for any failure referred to in the said provision of he proves that there was reasonable cause for the said failure'. A conjoint reading of section 271B and 273B of the Act would show that penalty u/s 271B of the Act would not be imposable for the failure referred in section 271B of the Act, if the assessee proves that there was reasonable cause for the failure. The Act clearly lays down a burden on the assessee to prove that its failure to get the accounts audited or submit the audit report was supported by reasonable cause. Thus, the limited issue for consideration before us would be whether the assessee had shown any reasonable cause for its failure to get the accounts audited or file the audit report. Perusal of the penalty order dated 25.01.2022 would show that the assessee in its written submission dated 06.08.2021 filed before the Assessing Officer, had claimed to have reasonable and sufficient cause but had not shown or demonstrated any. The Ld. CIT(A) also notes that the assessee had not demonstrated any reasonable cause for its failure. Before us also no reasonable cause was demonstrated. There was no mention of the reasonable cause for the failure in the written submissions filed before us. Therefore, we conclude that the assessee has not shown any reasonable cause and failed to discharge its onus u/s 273B of the Act. That no addition was made to the returned income during the

assessment proceedings would not be a cause much less reasonable cause to explain for its failure. The Ld. CIT(A) has rightly rejected such plea. Non-compliance to the statutory obligations in our view cannot be considered as mere technical breach. Being a government undertaking having substantial turnover, it is its bounden duty to comply with statutory obligations relating to income tax. Having failed to comply with statutory obligations, it cannot contend to be a mere technical breach. We do not find merit in the plea. We further observe that in the case of M/s Bihar State Forest Development Corporation, Patna (supra), the assessee therein could not file the Audit Report within the specified date for the reason that there was a delay in the appointment of statutory Auditor by the Company Law Board on the advice of the Comptroller and Auditor General, and in such facts and circumstances, the Tribunal has taken a view that penalty is not leviable. However, in the assessee's case, no reasonable cause was shown at all before any of the authorities or appellate bodies. Thus, we find that the Ld. CIT(A) has rightly held that the said decision is not applicable to the assessee's case and has rightly rejected the pleas of the assessee. As no reasonable cause was shown, we uphold the order of the Ld. CIT(A) and confirm the levy of the impugned penalty on the assessee u/s 271B of the Act.



7. In the result, appeal of the assessee is dismissed.

Order pronounced on 31.08.2026.

Sd/-
(DUVVURU RL REDDY)
VICE-PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Dated: 31.08.2026

DP, PS

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

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DEPUTY REGISTRAR
KOLKATA BENCHES, KOLKATA