IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, JAIPUR
(PHYSICAL HEARING)

Before: Shri Kuldip Singh, Judicial Member
And Shri Prakash, Accountant Member

ITA Nos: 648, 650, 653 655 656/JPR/2025
Assessment Years: 2014-15 to 2018-19

Urban Improvement Trust Sikar, Silver Jublee Road, Basant Vihar, Sikar **PAN: AAATU6139J (Appellant)**	Vs	ACIT, Circle-Exemption, Jaipur **(Respondent)**

Assessee Represented: **Sh. Shrawan Kumar Gupta, Adv. & Sh. Ashok Kumar Gupta, Adv.**
Revenue Represented: **Ms. Namita Patel, JCIT**

Date of hearing : 23-09-2026
Date of pronouncement : 21-10-2026

आदेश/ORDER

PER : PRAKASH, ACCOUNTANT MEMBER:-

1. These five appeals by the Assessee are directed against five separate orders of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "the learned CIT(A)"] all dated 24.02.2025, arising out of the orders dated 16.09.2022 passed by the Deputy/Assistant Commissioner of Income Tax, Circle (Exemptions), Jaipur (hereinafter referred to as "the AO") under section 271B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the assessment years 2014-15 to 2018-19. The particulars are as under:

ITA No.	A.Y.	Gross receipts as per accounts (Rs)	Penalty (Rs)
648/JPR/2025	2014-15	23,47,05,426	1,50,000
650/JPR/2025	2015-16	3,99,53,747	1,50,000
653/JPR/2025	2016-17	6,29,48,138	1,50,000
655/JPR/2025	2017-18	3,18,58,649	1,50,000
656/JPR/2025	2018-19	8,80,14,671	1,50,000

2. As the issue in all the appeals is common, they were heard together and are disposed of by this common order.

3. The grounds of appeal raised by the Assessee before us in the memorandum of appeal in Form No. 36 for assessment year 2014-15 read as under:

> *"1. The impugned order u/s 271B of the I.T. Act, 1961 dated 16.09.2022 as well as the action taken u/s 271B notices issued are illegal, bad in law and on the facts of the case for want of jurisdiction and various other reasons or bared by limitation and further contrary to the real facts of the case, hence the same may kindly be quashed.*
>
> *2. Rs.1,50,000/-: The ld. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the Penalty of Rs.1,50,000/- imposed by the ld. AO u/s 271B for non getting the accounts audited or not furnishing the audit report, also erred ignoring the various material evidence available on record or not considering the same in their true perspective and sense. Hence the penalty made by the ld. AO and confirmed by the ld. CIT(A) is also being contrary to the real facts of the case and not according to the provision of law, hence the same may kindly be deleted in full.*
>
> *3. That the appellant prays your honour indulgences to add, amend r alter of or any of the grounds of the appeal on or before the date of hearing."*

4. The grounds for assessment years 2015-16 to 2018-19 are identical.

5. Briefly stated, the facts of the case are that the assessee was established by the Government of Rajasthan under the Rajasthan Urban Improvement Act, 1959 (hereinafter referred to as "the 1959 Act") by order dated 21.01.2013 for the improvement of the urban areas of Sikar. It did not file any return of income for these years. Its accounts for financial years 2013-14 to 2017-18 were audited only in 2019. It was granted registration under section 12AA of the Act on 05.08.2019 with effect from assessment year 2019-20. The assessments for these years were reopened, and the AO assessed the surplus of income over expenditure of each year by orders passed in March 2022, after denying the claims of the assessee that it was a local authority exempt under section 10(20) of the Act and that it was entitled to exemption under sections 11 and 12 of the Act. In the assessment orders, the AO also initiated penalty proceedings under section 271B of the Act on the ground that the assessee had failed to get its accounts audited and to furnish the audit report under section 44AB of the Act.

6. The penalty proceedings were transferred to the jurisdictional AO under the Faceless Penalty Scheme, 2021, with the approval of the CBDT, and fresh show cause notices were issued. The assessee replied that it was formed by the Government of Rajasthan for general public utility, was registered under section 12AA of the Act and did not carry on any business, so that section 271B of the Act was not applicable. The AO rejected the reply because the registration was effective only from assessment year 2019-20 and the assessee had not filed returns or audit reports. Holding that the gross receipts exceeded Rs 1 crore and that the assessee had violated section 44AB of the Act, he levied a penalty of Rs 1,50,000 for each

year, being the lower of 0.5% of the gross receipts and Rs 1,50,000, after obtaining the approval of the Joint Commissioner.

7. The learned CIT(A) confirmed the penalties. Referring to the dismissal of the quantum appeals, he held that the assessee was not covered by section 10(20) or section 10(46) of the Act, and concluded in paragraph 5.7 of the order for assessment year 2014-15 as under:

> *"5.7 To sum up, the appellant failed to adduce any cogent reason as to why it failed to get its books audited as mandated u/s 44AB of the Act and accordingly, I am declined to interfere with the order of the Assessing Officer who has correctly levied the penalty u/s 271B of the Act amounting to Rs.1,50,000/- for the Asst Year 2014-15. Accordingly, the grounds raised by the appellant are dismissed."*

8. Before us, the learned Authorised Representative (hereinafter referred to as "the learned AR") made detailed oral submissions and also relied on the written submissions. It was submitted that the assessee is a statutory body under the control of the State Government, that its income is not chargeable to tax, and that no penalty can therefore be imposed under section 271B of the Act. It was further submitted that the assessee is treated as a trust in the assessment and penalty orders and was registered under section 12AA of the Act, that it does not carry on any business, and that section 44AB of the Act applies only to persons carrying on business or profession. Reliance was placed on ***CIT v. Market Committee, Sirsa [2012] 210 Taxman 20 (P&H)***[IT APPEAL NOS. 494 & 495 OF 2005], where the penalty was deleted because exemption was claimed under a bona fide belief. It was also submitted that the accounts of the assessee are audited by the Accountant General and that, where two views are possible, the view favourable to the assessee should be adopted.

9. The learned Departmental Representative (hereinafter referred to as "the learned DR") made the submissions by relying on the orders of the lower authorities and on the written submissions dated 23.09.2026. It was submitted that the penalty orders were passed within the time allowed by section 275(1)(c) of the Act. On merits, it was submitted that the assessee is a "person" carrying on business within section 2(13) of the Act, since it systematically allots, auctions and leases land and converts land use for consideration. Its gross receipts were far above the threshold, and the head under which the AO later assessed the income does not decide the obligation under section 44AB of the Act. The decision in ***Market Committee, Sirsa (supra)*** concerned a local authority whose income was exempt under section 10(20) of the Act, which the assessee is not. The audit under any other law satisfies section 44AB of the Act only when a further report in the prescribed form is also furnished, which was never done. The belief of the assessee that it was a local authority was not settled or bona fide, because the Hon'ble Rajasthan High Court accepted that view only in 2017 and the Hon'ble Supreme Court reversed it on 12.10.2018, and the assessee had changed its stand at every stage. No reasonable cause under section 273B of the Act was shown, and the penalties deserve to be confirmed.

10. We have heard the rival submissions and perused the material on record. Ground No. 1 challenges the jurisdiction of the AO and the limitation, but does not identify any specific defect. The penalty proceedings were initiated in the assessment orders passed in March 2022, the proceedings were transferred to the jurisdictional AO with the approval of the CBDT, and the penalty orders were passed on 16.09.2022 after issuing show cause notices and obtaining the approval under section 274(2) of the Act. The orders were passed within six months from the end of the month in which

the proceedings were initiated, which is within the time allowed by section 275(1)(c) of the Act. Ground No. 1 is, therefore, dismissed.

11. On Ground No. 2, the question is whether the penalties are justified. Section 273B of the Act provides that no penalty shall be imposable under section 271B of the Act for any failure referred to therein if the person proves that there was reasonable cause for the failure. Even where a default is established, the authority has to consider whether the default flowed from a reasonable cause. The Hon'ble Supreme Court in ***Hindustan Steel Ltd. v. State of Orissa [1972] 83 ITR 26 (SC)*** laid down the governing principle as under:

> *"An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged, either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevent circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."*

12. Applying this principle, we find that the circumstances of the present case establish a reasonable cause. Our reasons are as under:

(a) The assessee is a statutory body created by the State Government under the 1959 Act. Its stand that it was a local authority whose income was exempt under section 10(20) of the Act was taken before the AO itself, as recorded in the assessment order for assessment year 2014-15. Whether Urban

Improvement Trusts constituted under the 1959 Act are local authorities was a question in litigation for several years. It was decided in favour of such Trusts by the Hon'ble Rajasthan High Court, and was finally settled against them only on 12.10.2018 by the Hon'ble Supreme Court in ***ITO v. Urban Improvement Trust [2018] 409 ITR 1 (SC)***. The specified dates for getting the accounts audited for the first four years fell well before that judgment, and the specified date for assessment year 2018-19 fell at about the same time. A belief that the jurisdictional High Court had accepted, and that needed the Hon'ble Supreme Court to dispel, cannot be called fanciful or contumacious, even if the High Court's view came after some of the specified dates.

(b) The accounts of the assessee are not left unaudited by law. Section 68(2) of the 1959 Act provides that

> *"The accounts of the Trust shall be subject to audit annually by the Examiner of Local Fund Audit and the provisions of the Rajasthan Local Fund Audit Act, 1954 (Rajasthan Act 38 of 1954) shall apply."*

A statutory body whose accounts are subject to audit by the State under its own statute could reasonably have believed that it was not required to obtain a separate audit as a person carrying on business. While we do not hold that this audit satisfies the requirement of section 44AB of the Act, the point is only that the failure was not a conscious attempt to avoid scrutiny of its accounts.

(c) Section 44AB of the Act applies to a person carrying on business whose turnover or gross receipts exceed the specified limit. The

Hon'ble Punjab and Haryana High Court in ***Market Committee, Sirsa (supra)*** held in paragraph 11 as under:

> *"11. Chapter IV of the Act provides for 'computation of total income'. Section 44AB of the Act is one of the sections enacted under Chapter IV-D dealing with computation of profits and gains of business or profession. Section 44AB of the Act becomes operative where there is computation of profits and gains of business or profession as a part of total income. In other words, it has no applicability where the assessee is not involved in or has no income from profits and gains from business or profession. In the present case, it was not disputed that the income of the assessee was exempted under Section 10 (20) of the Act which falls in Chapter III of the Act. There was no income of the assessee which would fall under heading "profits and gains of business or profession". Once that was so, it could not be said that the provisions of Section 44AB were applicable and as a sequel thereto, penalty under Section 271B of the Act was not leviable. The Tribunal had rightly decided the issue in favour of the assessee."*

We are conscious that the income of the assessee is not exempt under section 10(20) of the Act, as the learned DR rightly pointed out. However, in none of the years did the AO compute the income of the assessee under the head "Profits and gains of business or profession".

For assessment years 2014-15, 2017-18 and 2018-19, he expressly assessed the surplus as "Income from Other Sources", and for the other two years he did not specify any head. The AO did not, in the assessments, treat the activities of the assessee as business.

Whether the activities of a statutory development body amount to business is itself a question of fact to be examined year by year. In these circumstances, the view of the assessee that it was not carrying

on business within section 44AB of the Act was a bona fide view, and the AO could not treat the receipts as business turnover only for the purpose of the penalty.

(d) The default is technical in nature. The penalty is a fixed sum of Rs 1,50,000 for each year, and the income has been assessed on the basis of the accounts of the assessee itself. Nothing has been brought on record to show that the failure to obtain the audit led to any concealment or loss of revenue. The change in the pleas of the assessee at different stages, pointed out by the learned DR, reflects the evolving legal position after the judgment of the Hon'ble Supreme Court rather than any dishonest conduct.

13. The learned CIT(A) confirmed the penalties mainly because the claims under sections 10(20) and 10(46) of the Act were rejected in the quantum appeals. The rejection of an exemption claim does not by itself establish that the failure to get the accounts audited was without reasonable cause. Taking all the above circumstances together, we hold that the assessee has shown reasonable cause for the failure within the meaning of section 273B of the Act. The penalties of Rs 1,50,000 levied under section 271B of the Act for each of the assessment years 2014-15 to 2018-19 are, therefore, deleted. Ground No. 2 is allowed. Ground No. 3 is general in nature and needs no adjudication.

14. In the result, **the appeals filed by the Assessee in ITA Nos. 648, 650, 653, 655 and 656/JPR/2025 are allowed.**

Order pronounced in the open court on 21.10.2026

Sd/-	**Sd/-**
(KULDIP SINGH)	**(PRAKASH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated 21/10/2026

**Ganesh Kr., Sr. PS*

आदेशकीप्रतिलिपिअग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT
6. Guard file.

By order/**आदेश से**,

सहायक पंजीकार

आयकर अपीलीय अधिकरण, जयपुर