

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Chandra Poojari, AM & Shri George George K, JM

ITA No.361/Coch/2019 : Asst.Year 2015-2016

M/s.The Secretary, Marayoor Service Co-operative Bank Limited, C/o.A Kumar, 28/3085-B, Parvathy Nivas, Tagore Nagar, Kadavanthara, Kochi – 682 020. PAN : AACAM0362Q.	Vs.	The Joint Director of Income-tax (I & CI) Kochi.
(Appellant)		(Respondent)

ITA No.362/Coch/2019 : Asst.Year 2015-2016

M/s.The Secretary, The Kokkayar Service Co-operative Bank Limited C/o.A Kumar, 28/3085-B, Parvathy Nivas, Tagore Nagar Kadavanthara Kochi – 682 020. PAN : AAABK1582H.	Vs.	The Joint Director of Income-tax (I & CI) Kochi.
(Appellant)		(Respondent)

ITA No.363/Coch/2019 : Asst.Year 2014-2015

M/s.The Secretary, Munnar Service Co-operative Bank Limited, C/o.A Kumar, 28/3085-B, Parvathy Nivas, Tagore Nagar, Kadavanthara Kochi – 682 020. PAN : AABAM0925A.	Vs.	The Joint Director of Income-tax (I & CI) Kochi.
(Appellant)		(Respondent)

ITA No.364/Coch/2019 : Asst.Year 2014-2015

M/s.The Secretary, Anavilasam Service Co-operative Bank Limited, C/o.A Kumar, 28/3085-B, Parvathy Nivas, Tagore Nagar, Kadavanthara Kochi – 682 020. PAN : AADAA0293M.	Vs.	The Joint Director of Income-tax (I & CI) Kochi.
(Appellant)		(Respondent)

Appellants by : Sri.A.Kumar, Advocate
Respondent by : Smt.A.S.Bindhu, Sr.DR

Date of Hearing : 08.07.2019	Date of Pronouncement : 09.07.2019
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ORDER

Per Bench :

These appeals at the instance of the assessee are directed against separate orders of the CIT(A). The orders of the CIT(A) arise out of the orders passed u/s 272A(2)(c) r.w.s. 274 of the Income-tax Act, 1961.

2. The brief facts of the case are as follow:

The assessees in the above cases have challenged the imposition of penalty u/s 272A(2)(c) of the I.T.Act. At the very outset we notice that the assessees had raised a ground in all the above appeals that the orders levying penalty are ex parte orders and hence bad in law. When the assessees received notice u/s 274 of the I.T.Act show causing for why penalty should not be imposed, the assessees had sought time stating that the provisions of issuance of notice u/s 133(6) of the I.T.Act was challenged before the Hon'ble High Court and requested the Assessing Officer to await the outcome of the Hon'ble High Court's judgment. Further, it was stated that the assessees had sought time for producing the details called for in the notice issued u/s 133(6) of the I.T.Act stating that the documents called for are voluminous. Hence it contended that there was reasonable cause as mandated u/s 273B of

the I.T.Act for not imposing penalty u/s 272A(2)(c) of the I.T.Act.

3. We have heard the rival submissions and perused the material on record. We find that in all the above cases, the Assessing Officer's have passed penalty orders without hearing the assesseees. Therefore, in the interest of justice and equity, as a last chance, we are of the view that the assesseees should be given one more opportunity of hearing in the above cases. For the limited purpose of hearing the assesseees and to comply with the principle of natural justice, we restore the above cases to the Assessing Officer. The assesseees shall co-operative with the Department and shall submit before the Assessing Officer that there is reasonable cause as mandated u/s 273B for non-levy of penalty u/s 272A(2)(c) of the I.T.Act. It is ordered accordingly.

4. In the result, the appeals filed by the assesseees are allowed for statistical purposes.

Order pronounced on this 09th day of July, 2019.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K.)
JUDICIAL MEMBER

Cochin ; Dated : 09th July, 2019.
Devdas*

Copy of the Order forwarded to :

1. The Appellants.
2. The Respondent.
3. The CIT, Kochi.
4. CIT(A)-I, Kochi.
5. DR, ITAT, Cochin
6. Guard file.

BY ORDER,

(Asstt. Registrar)
ITAT, Cochin