

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

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

ITA No.455/Coch/2019 : Asst.Year 2010-2011

M/s.Chunakkara Service Co-operative Bank Limited No.4081, Chunakkara PO Alappuzha District. PAN : AACAT4834E.	Vs.	The Joint Director of Income-tax (I & CI) Kochi.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.A.S.Bindhu, Sr.DR

Date of Hearing : 06.08.2019	Date of Pronouncement : 07.08.2019
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ORDER

Per George George K, JM :

This appeal at the instance of the assessee is directed against the order of the CIT(A) dated 14.05.2019. The relevant assessment year is 2010-2011. The order of the CIT(A) arises out of the order 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 assessee in the above case has challenged the imposition of penalty u/s 272A(2)(c) of the I.T.Act. At the very outset we notice that the assessee had raised a ground in the above appeal that the order levying penalty is ex parte order and hence bad in law. When the assessee received notice u/s 274 of the I.T.Act show causing for why penalty should not be

imposed, the assessee 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, the assessee 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. None appeared on behalf of the assessee, hence, we dispose off this appeal on merits after hearing the learned DR.

4. We have heard the learned DR and perused the material on record. We find that in the above case, the Assessing Officer has passed penalty order without hearing the assessee. Therefore, in the interest of justice and equity, as a last chance, we are of the view that the assessee should be given one more opportunity of hearing in the above case. For the limited purpose of hearing the assessee and to comply with the principle of natural justice, we restore the above case to the Assessing Officer. The assessee 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.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 07th day of August, 2019.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K.)
JUDICIAL MEMBER

Cochin ; Dated : 07th August, 2019.
Devdas*

Copy of the Order forwarded to :

1. The Appellant.
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