

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

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

ITA No.357/Coch/2015 : Asst.Year 2005-2006

Sri.E.Ummer Bava C/o.Raghunath & Associates, Advocates "Sreyas", Near Lions Hall, Rajiv Naagar, Thiruthiyad Calicut – 673 001. PAN : ADKPB9071F.	Vs.	The Asst.Commissioner of Income-tax, Circle – 1 Tirur.
(Appellant)		(Respondent)

Appellant by : Sri.Raghunathan P

Respondent by : Sri.Mritunjaya Sharma, CIT-DR

Date of Hearing : 07.07.2020	Date of Pronouncement : 07.07.2020
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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 (Appeals) dated 20.03.2015. The relevant assessment year is 2005-2006.

2. The solitary issue raised is whether the CIT(A) is justified in confirming the imposition of penalty u/s 271(1)(c) of the I.T.Act.

3. At the very outset, we noticed that as regards the quantum assessment, the assessee has succeeded before the Hon'ble Apex Court (Civil Appeal No.1246 of 2020 judgment dated February 7, 2020). The Hon'ble Apex Court, out of the total addition of Rs.37 lakh in the quantum assessment, had

deleted Rs.35 lakh being the addition made u/s 68 of the I.T.Act. Since the Hon'ble Apex Court had deleted the addition of Rs.35 lakh, the penalty with reference to the said addition, necessarily have to be deleted. As regards the addition of Rs.2 lakh, the same has attained finality in the quantum assessment, hence, penalty on the quantum addition of Rs.2,00,000 is to be sustained. It is ordered accordingly.

4. In the result, the appeal filed by the assessee is partly allowed.

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

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Cochin ; Dated : 07th July, 2019.
Devadas G*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The Pr.CIT, Kochi.
4. The CIT (A), Kozhikode.
5. DR, ITAT, Cochin
6. Guard file.

BY ORDER,

(Asstt. Registrar)
ITAT, Cochin