

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA Nos.1853 to 1860/Bang/2019</b>
<b>Assessment years : 2006 – 07 to 2013 – 14</b>

M/s The Pragathi Co Operative Bank Ltd., 12/1, Pragathi Bhavan, 1 <sup>st</sup> Main Road, Malleshwaram, Bengaluru – 560 003. <b>PAN : AAAAT5060A</b>	V s.	DIT (Intelligence and Criminal Investigation), Bengaluru.
APPELLANT		RESPONDENT
Assessee by	:	Shri Balaram P. Rao, Advocate
Revenue by	:	Shri. Guruprasad M. P. JCIT DR
Date of hearing	:	12.10.2020
Date of Pronouncement	:	16.10.2020

**ORDER**

***Per Bench***

All these eight appeals are filed by the assessee and the same are directed against a combined order of learned CIT(A) – 13 Bengaluru dated 10.04.2019 for the Assessment Years 2006 – 07 to 2013 – 14. All these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. In these appeals, although various grounds are raised by the assessee but there is only one common grievance in all these years and it is about penalty u/s 271FA.

3. In course of hearing, this was submitted by the learned AR of the assessee that there is a delay of 75 days in filing of these appeals before

the tribunal and the assessee has submitted an application for condonation of this delay and in this application, it is explained by the assessee that the assessee has forwarded the papers for filing of these appeals to its tax consultant in time but he was busy in GST work and because of this, he lost track and could not file it within time and later, when the assessee came to know about this, he entrusted this work to the present counsel, who is arguing before the tribunal. He also submitted that affidavit of the president of the assessee bank and affidavit of the concerned Chartered Accountant are also filed in support of these contentions. He submitted that under these facts, this delay should be condoned. Although learned DR of the revenue opposed to condonation of delay but in the interest of justice, we condone the delay.

4. Regarding merit of these appeals, learned AR of the assessee submitted that penalty u/s 271FA is also covered by section 273B as per which, if there is reasonable cause for the failure of the assessee, penalty should not be imposed. Regarding reasonable cause in the present case, he submitted that Rule 114E of Income Tax Rules is relevant in this regard and this rule was amended by the IT (Seventh Amdt.) Rules 2016 w.r.e.f. 01.04.2015 and prior to this amendment, the assessee was under bonafide belief that this Rule is not applicable to a Co operative Bank because in the Rule, the reference was to A Banking Company to which the Banking Regulation Act, 1949 applies and after this amendment, the words 'Co Operative bank' was added.

5. As against this, learned DR of the revenue supported the order of CIT (A). He pointed out that in Para 5.3 on page 7 of his order, Learned CIT (A) has dealt with this argument and has given a categorical finding

that the insertion in the Rule 114E by this amendment is only clarificatory in nature and therefore, applies from the date the Rule has been enforced and hence, there is no infirmity in the order of CIT (A).

6. We have considered the rival submissions. In our considered opinion, even if we accept that the amendment in the Rule 114E is clarificatory and hence, applicable for the period prior to 01.04.2015 also, then also, this much has to be accepted that before this amendment, the assessee can have this view bonafidely that this Rule is not applicable to it and because of this ambiguity only, the amendment was carried out and Co Operative bank has been specifically inserted in this Rule 114E. In this view of the matter, we are satisfied that there was reasonable cause for the failure of the assessee to comply with Rule 114E and complying the same belatedly and therefore, section 273B is applicable and penalty imposed u/s 271FA is not justified and we delete the same in all these eight years.

7. In the result, all eight appeals of the assessee are allowed.

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**  
**(N. V. VASUDEVAN)**  
**Vice President**

Bangalore,  
Dated: 16<sup>th</sup> October, 2020.

/NS/\*AKG

**Sd/-**  
**(A.K. GARODIA)**  
**Accountant Member**

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|---------------|-------------------------|---------------|
| 1. Appellants | 2. Respondent           | 3. CIT        |
| 4. CIT(A)     | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.