

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

Before Shri George Mathan, JM & Shri M.Balaganesh, AM

ITA No. 70/Coch/2021
(Assessment Year: 2014-15)

M/s.Hotel Royal, Shop No.17/402, Rajaji Road, Kozhikode-4	Vs	The Income Tax Officer, Ward-1(2), Kozhikode
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PAN : AADFH0410L (Appellant)	(Respondent)
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Appellant by : NONE
Respondent by : Smt.J.M.Jamunna Devi, Sr.DR

Date of Hearing	:	15.03.2022
Date of Pronouncement	:	15.03.2022

ORDER

PER BENCH:

This appeal filed by the assessee against the order of the CIT(A), Kochi-3, dated 03-02-2021, in appeal No.CIT(A), Kozhikode/10174/2018-19 for the AY.2014-15 against the confirmation of penalty levied u/s.271B of the Income Tax Act, 1961 (Act).

2. None represented on behalf of the assessee. However, adjournment letter has been filed and the same stands rejected. Smt. J.M.Jmunna Devi, Sr.DR appeared on behalf of Revenue.

3. A perusal of the facts of the present case shows that the AO has levied penalty u/s.271B of the Act on account of delay in filing the audit report. In the statement of facts before the Ld.CIT(A), the assessee has mentioned that while completing the assessment accepting the return of income, the AO has imposed maximum

penalty of Rs.1,50,000/- u/s.271B of the Act. The penalty has been imposed for the delay in submitting audit report u/s.44AB of the Act and for not filing the audit report. Thus, basically, penalty has been levied for not filing audit report within the specified time. In the statement of facts, the assessee has mentioned that the accountant had to collect details from different branches situated at different places which had taken some time and compile the same and to get audited and the delay was caused due to the absence of the accountant, who had left the job without any notice and little time was consumed for making alternate arrangement.

4. In reply, the Ld.DR submitted that there was a delay of more than 34 months. It was the submission that since the delay is unreasonable and without a reasonable cause, the penalty was rightly confirmed by the Ld.CIT(A).

5. We have considered the rival submissions. Admittedly, the audited report has been filed along with the return of income even before the assessee has mentioned the reason that the part time accountant, had left the job without any notice and little time was consumed for making alternate arrangement. Further, it is noticed that the FY.2013-14 was the first year the assessee's turnover exceeded Rs.1 Crore as is mentioned by the Assessing Officer in his penalty order. As the reasonable cause as submitted by the assessee has not been found to be false, and also on account of the fact that the audit report was available with the AO at the time of hearing of the assessment, in view of the decision of the Hon'ble High Court of Madras in the case of CIT Vs. A.N.Arunachalam reported as 208 ITR 481 (MAD) and also taking into consideration the fact that the AY.2013-14 was the first year in which the assessee's turnover exceeded Rs.1 Crore and normally it will take some time for the assessee to get the same into proper order, the

reasonable cause explained by the assessee is accepted and the penalty u/s.271B of the Act as levied by the AO and confirmed by the Ld.CIT(A) stand deleted.

6. In the result, the appeal of assessee is allowed.

Dictated and pronounced in the open court on 15th March, 2022

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Cochin, Dated: 15th March, 2022

TNMM

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A)-3, Kochi*
4. *The Pr.CIT(Central), Kochi*
5. *The DR, ITAT, Cochin*
6. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Cochin