

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

**Before Shri George George K., Judicial Member  
and  
Ms. Padmavathy S., Accountant Member**

ITANo. 789/Coch/2022 (Assessment Year: 2011-12)		
Karikode Service Co-op. Bank Ltd. Thodupuzha East P.O. Idukki Dist. 685585 PAN - AAAAT3228L	vs	The Income Tax Officer Ward -1 & TPS Mahirna Tower, Temple Bypass Road Thodupuzha 785584
(Appellant)		(Respondent)

Assessee by:	Ms. Swathy S., Advocate
Revenue by:	Smt. J.M. Jamuna Devi, Sr. DR
Date of hearing:	02.03.2023
Date of pronouncement:	03.03.2023

**ORDER**

**Per: George George K., J.M.**

This appeal at the instance of the assessee is directed against the order of the CIT(A)/NFAC, Delhi dated 26.05.2022 passed under Section 250 of the Income Tax Act, 1961 (the Act). The relevant assessment year is 2011-12.

2. The brief facts of the case are as follows: -

The assessee is a Co-operative Society registered under the Kerala Co-operative Societies Act, 1969. Pursuant to the notice issued under Section 148 of the Act the assessee filed return of income for AY 2011-12 on 28.04.2018 declaring total income at 'Nil' (after claiming deduction under Section 80P of the Act). The assessment under Section 143(3) r.w.s. 147 of the Act was

completed vide order dated 19.12.2016 disallowing the claim for deduction under Section SOP of the Act. It is noted that penalty under Sections 271B and 271F of the Act was also imposed.

3. Aggrieved-by the reassessment completed under Section 143(3) r.w.s. 147 of the Act, the assessee preferred appeal before the first appellate authority. The CIT(A) dismissed the appeal of the assessee vide impugned order dated 26.05.2022 stating that the appeal has become infructuous since the assessee has settled the issue under Vivad-se-Vishwas Scheme.

4. Aggrieved by the order of the CIT(A) the assessee has filed the present appeal before the Tribunal. The learned A.R. submitted that the CIT(A) has committed an error in dismissing the appeal of the assessee against the assessment order on a wrong belief that the assessee had opted for Vivad-se-Vishwas Scheme. It was submitted by the learned A.R. that the assessee had only opted for Vivad-se-Vishwas Scheme for the penalty imposed and settled the matter. The learned A.R. submitted that the appeal may be restored to the file of the CIT(A) so that a decision shall be taken on merits.

5. The learned D.R. was duly heard.

6. We have heard the rival contentions and perused the material on record. It is claimed by the learned A.R. that the assessee had settled only penalties imposed under the Vivad-se-Vishwas Scheme and not for the assessment completed under Section 143(3) r.w.s. 147.of the Act. This claim of the assessee needs to be examined by the CIT(A) and for the aforesaid purpose the matter is restored to the file of the CIT(A) to take a decision in accordance with law. It is ordered accordingly.

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

Order pronounced in the open Court on 3<sup>rd</sup> of March, 2023.

Sd/-  
**(Padmavathy S.)**  
**Accountant Member**

Sd/-  
**(George George K.)**  
**Judicial Member**

Cochin, Dated: 3<sup>rd</sup> of March, 2023

Copy to:

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

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Cochin*

n.p.