

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA.No.621/COCH./2022
Assessment Year 2008-2009

John Augusty Poomkudy, 12A, Link Heights, Panampilly Nagar, KOCHI. PIN – 682 036 PAN AFRPP0746A KERALA.	vs.	The ACIT, Corp. Circle-1(2), C.R. Building, I.S. Press Road, KOCHI – 682 018. Kerala.
(Appellant)		(Respondent)

For Assessee :	Shri CBM Warriar, CA
For Revenue :	Smt. V. Swarnalatha, Sr. DR

Date of Hearing :	20.08.2024
Date of Pronouncement :	22.08.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal, for the assessment year 2008-2009, arise against the CIT(A)-National Faceless Appeal Centre [in short the "NFAC"], Delhi, Delhi's DIN & Order no.ITBA/NFAC/S/250/2021-22/1040972497(1), dated 17.03.2022, in proceedings u/sec.271(1)(c) of the Income Tax Act, 1961 (in short the "Act").

Heard both the parties. Case file perused.

2. It emerges at the outset that both the learned lower authorities have levied the impugned sec.271(1)(c) penalty in assessee's case amounting to Rs.75 lakhs pertaining to the quantum disallowance of interest u/sec.57(iii) of the Act wherein the taxpayer had claimed interest expenditure against interest income which he failed to substantiate despite filing all the relevant details.

3. Suffice to say, even the Revenue could not rebut the clinching fact that such a failure on assessee's part in filing all the relevant details along with the return and lack of substantiation thereof on his part, would hardly invite the impugned penal provision as per CIT vs. Reliance Petro Products (P) Ltd., [2010] 3 SCR 510 (SC) wherein their lordships' have settled the law that on each and every quantum addition/disallowance does not attracts the impugned penal provision automatically. We find force in learned counsel's vehement submissions for deleting the impugned penalty of Rs.75 lakhs. Ordered accordingly.

4. Delay of 02 days is condoned by considering the assessee's condonation petitions explaining the delay(s) as well as going by the decision in the case of Collector Land Acquisition

vs. Mst. Katiji & Ors(1987) 167 ITR 471 (SC) settling the issue long back that that all such technical aspects must make way for the cause of substantial justice the delay is condoned and the appeals are admitted for adjudication.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 22.08.2024.

Sd/-
[AMARJIT SINGH]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Cochin, Dated 22nd August, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT concerned
4.	The D.R. ITAT, Cochin Bench, Cochin.
5.	Guard File.

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,
Cochin