

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

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.143/Coch/2023
Assessment Year: 2017-2018

Udumbannoor Service Co-operative Bank Ltd. No.E-93 Udumbannoor PO Idukki District – 685 595. PAN : AAAAT8687K.	v.	The Income Tax Officer Ward 3, Thodupuzha.
(Appellant)		(Respondent)

Appellant by : Shri C.A. Jojo, Advocate
Respondent by : Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing : 12.08.2024	Date of Pronouncement : 12.08.2024
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ORDER

Per Bench :

This assessee's appeal for A.Y. 2017-18 arises against the National Faceless Appeal Centre, Delhi [CIT(A)] DIN & Order No. ITBA/NFAC/S/250/2022-23/1048082581(1) dated 19.12.2022, in proceedings u/s. 250 of the Income Tax Act, 1961 (the Act) .

Heard both the parties. Case file perused.

2. Coming to the assessee sole substantive grievance that both the ld. lower authorities have erred in law and on facts in levying s. 271B penalty, it is contended that this taxpayer's books had already been audited by the competent authority, i.e. the Registrar of Cooperative Societies, Kerala. Learned counsel further submits that section 44AB, third provision itself envisages leverage to such a compliance of audit; which in turn, has been

duly acknowledged in s. 271B as well. The assessee next takes us to the impugned penalty provisions, i.e. s. 271B wherein the corresponding audit is as required u/s. 44AB of the Act only. That being the case, learned counsel accordingly argues that once the assessee has satisfied the rigor of s. 44AB itself in the foregoing terms, then s. 271B penalty could not have been imposed in the facts and circumstances of the case.

3. The Revenue on the other hand strongly argues that s. 271B stipulates that tax audit report should be filed within the statutory limit provided in the Act, therefore, the impugned penalty deserves to be sustained.

4. We find no reason to accept the Revenue's above stand. We have made it clear in the preceding paragraphs that s. 44AB forms the basis of the impugned penalty u/s. 271B of the Act, in case the assessee fails to comply with the rigor of the tax audit compliance. We reiterate that this assessee is a co-operative credit society wherein it already gets its accounts audited by the departmental auditor. We are of the considered view in these facts that the impugned penalty cannot be sustained as the assessee is a co-operative society duly audited under the provisions of the Stage government Act. The impugned penalty levied by both the lower authorities that it has not got its books audited u/s. 44AB is deleted therefore.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 12th Day of August, 2024.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Cochin ; Dated : 12th August, 2023.
Devadas G*

Copy to :

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

Asst. Registrar/ITAT, Cochin