

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN

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

I.T.A.Nos.148 & 149/COCH./2023
Assessment Years 2015-2016 & 2016-2017

KMA Constructions India Pvt. Ltd., Door No.11/405, MSS Cultural Complex, Cherooty Road, KOZHIKODE PIN – 673 001 PAN AACCK6340G KERALA.	vs.	The Income Tax Officer, Circle-1(1) TPS, KOZHIKODE. KERALA.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Smt. V. Swarnalatha, Sr. DR

Date of Hearing :	21.08.2024
Date of Pronouncement :	25.09.2024

ORDER

PER BENCH :

These assessee's twin appeals I.T.A.Nos.148 & 149/COCH./2023, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2022-23/1045334225(1) and 1048110931(1), dated 09.09.2022 and 20.12.2022, for assessment years 2015-2016 & 2016-2017, involving proceedings u/s. 271B of the Income Tax Act, 1961 (in short "the Act"); assessment year-wise, respectively.

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

2. Delay of 88 days in filing the instant appeal [ITA.No.148/Coch./2023] is condoned as per assessee's solemn averments in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

3. Learned DR submits that both the learned lower authorities have rightly levied the impugned penalties of Rs.1.5 lakh each in the impugned assessment years once the assessee could not substantiate the delay in filing of its concerned tax audit report. We note in this factual backdrop that even the learned Assessing Officer is fair enough in giving clear-cut finding that the due date of submitting the said tax audit report(s) are 31.10.2015 and 17.10.2016, whereas the assessee had placed its corresponding reports on record on 10.12.2015 and 06.12.2016; respectively. It had further explained before the learned lower authorities that the said delay of almost two months each was on account of the fact that there was change in the auditor for the purpose of finalising its tax audit reports. Be that as it may, we

are of the considered view that once assessee is able to make-out its case attributing delay in compliance of 44AB provisions, the same forms reasonable cause u/sec.273B of the Act to delete the impugned penalty(ies). Ordered accordingly.

4. These assessee's twin appeals I.T.A.Nos.148 & 149/COCH./2023 are allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 25.09.2024.

Sd/-
[AMARJIT SINGH]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Cochin, Dated 25th September, 2024

VBP/-
Copy to

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

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,
Cochin