

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

Before Shri Satbeer Singh Godara, Judicial Member and
Shri Amarjit Singh, Accountant Member

ITA Nos. 334 & 335/Coch/2023
(Assessment Years: 2009-10 & 2012-13)

Adat Farmers Service Co-op. Bank Ltd. Puranattukara Thrissur 680551 [PAN: AANAA5771A]	vs.	Income Tax Officer - 2(1) Aayakar Bhavan Shakthanthampuran Nagar Thrissur 680001
(Appellant)		(Respondent)

Appellant by:	----- None -----
Respondent by:	Smt. Swarnalatha, Sr. D.R.

Date of Hearing:	12.08.2024
Date of Pronouncement:	25.09.2024

ORDER

Per Bench

These assessee's twin appeals ITA Nos. 334 & 335/Coch/2023, for assessment years 2009-10 & 2012-13, arise against separate orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 15.02.2023 and 13.12.2023, in proceedings u/s. 144 r.w.s. 147 and s. 271B of the Income Tax Act, 1961 (hereinafter "the Act"), respectively.

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

2. It emerges at the outset that there are very few relevant facts to be taken note of whilst deciding the assessee's sole substantive grievance claiming s. 80P deduction in ITA No.334/Coch/2923. This is for the precise reason that both the lower authorities have rejected assessee's claim amounting to Rs.22,56,349/- for having not

raised it in a “return” in light of s. 80A(5) of the Act. A perusal of the case file suggests that the assessee claims to have filed its return (with deduction) on 06.12.2016 whereas the Assessing Officer had framed his assessment on 25.11.2016 very well before that. That being the case, we conclude that both the learned lower authorities have rightly invoked s.80A(5) of the Act for the purpose of rejecting assessee’s 80P deduction in ITA No.334/Coch/2023. Rejected accordingly.

Delay of 23 days in filing the instant appeal stands condoned in light of the assessee’s condonation 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. Next comes assessee’s latter appeal in ITA No.335/Coch/2023 seeking to reverse both the lower authorities’ action levying s. 271B penalty of Rs.1,50,000/- on account of its failure to submit audit report within the prescribed ‘due date’ u/s. 139(1) of the Act. We notice in this factual matter that the assessee had filed its audit report manually in August, 2019. It had all along claimed that the delay was on account of the fact that it was awaiting the corresponding audit report from the state government department, which has gone un-rebutted by the department. That being the case, we delete the impugned s. 271B penalty since there exists a “reasonable” cause u/s. 273B as the delay was attributed to the state government department(s) relating to the co-operative societies. The impugned penalty is directed to be deleted.

3. Delay of 25 days in filing the instant appeal stands condoned in light of the assessee’s condonation 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.

4. In the result, the assessee's former appeal ITA No.334/Coch/203 is dismissed and latter's case ITA No.335/Coch/2023 stands allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 25th September, 2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin, Dated: 25th September, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin