

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

Before Shri Waseem Ahmed, Accountant Member and
Shri Soundararajan K., Judicial Member

ITA No. 69/Coch/2024
(Assessment Year: 2012-13)

Pudukad Service Co-op. Bank Ltd. Pudukad P.O., Thrissur 680301 [PAN: AADAP3276H]	vs.	Income Tax Officer Ward - 2(1) Thrissur
(Appellant)		(Respondent)

Appellant by:	Ms. Swathy S., Advocate
Respondent by:	Ms. Leena Lal, Sr. D.R.

Date of Hearing:	03.10.2024
Date of Pronouncement:	21.10.2024

ORDER

Per Bench

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 10.11.2023 for Assessment Year (AY) 2012-13.

2. The only issue raised by the assessee is that the learned CIT(A) erred in confirming the penalty levied by the Assessing Officer (AO) u/s 271B of the Income Tax Act, 1961 (the Act) amounting to Rs.1,47,609/- only.

3. In the present case, the audited financial statements were not furnished by the assessee within the due date as specified u/s 44AB of the Act. Therefore, the AO levied penalty u/s 271B of the Act amounting to Rs. 1,47,609/- only which was subsequently confirmed by the learned CIT(A).

4. Being aggrieved by the order of the learned CIT(A) the assessee is in appeal before us.

5. The learned A.R. before us submitted that the delay in getting the accounts audited and consequently furnishing the tax audit report belatedly was on account of the delay in getting the accounts audited and obtaining the audit certificate under the Kerala Cooperative Societies Act. Thus, it was pleaded by the learned counsel for the assessee that there was sufficient cause for the delay in getting the account audited and consequently furnishing the audit report belatedly. As such the learned A.R. prayed for wavier of the penalty under the provisions of section 273B of the Act.

6. On the other hand, the learned Sr. DR vehemently supported the orders of the authorities below.

7. We have heard the rival contentions of both the parties and perused the materials available on record. At the outset, we note that this Tribunal in the case of Udumbannoor Service Co-op. Bank Ltd. in ITA No. 143/Coch/2023 vide order dated 12.08.2024 has observed as under: -

“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.”

8. The facts of the case on hand are identical as discussed above. Thus, respectfully following the same, we delete the penalty imposed by the Revenue.

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

Order pronounced on 21st October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(Soundararajan K.)
Judicial Member

Sd/-
(Waseem Ahmed)
Accountant Member

Cochin, Dated: 21st October, 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