

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

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

ITA No.784/Coch/2023
ALONG WITH
SA No.177/Coch/2023 – Assessment Year - 2015-2016

Punalur Service Co-operative Bank Limited, Office Building Punalur Post Kollam – 691 305. PAN : AAGAS6534C.	vs.	The Income Tax Officer Ward 2 Kollam.
(Appellant/Applicant)		(Respondent)

Appellant/Applicant by : Sri.Santhosh P.Abraham
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 23.08.2024	Date of Pronouncement : 07.11.2024
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ORDER

PER BENCH :

This assessee's appeal ITA.No.784/Coch/2023 (along with it's stay application SA.No.177/Coch/2023 therein) for assessment year 2015-2016 arises out of the order of the CIT(A)/NFAC's DIN & Order No.ITBA/NFAC/S/250/2023-24/1054618457(1) dated 26.07.2023 in proceedings u/s.143(1) of the Income-tax Act, 1961; in short "the Act" hereinafter, respectively.

Heard both the parties. Case file perused.

2. We come to the assessee's appeal ITA.No.784/Coch/2023 along with its stay application SA.No.177/Coch/2023 therein for the former assessment year 2015-2016 challenging both the learned lower authorities action imposing sec.271(1)(c) penalty of Rs.10,24,792/- pertaining to its sec.80P deduction disallowance of rs.33,26,482/-. A perusal of the instant appeal file indicates that the same pertains to interest received from cooperative banks and similar other institutions as well as state treasury. The Assessing Officer had framed his sec.143(3) assessment on 15.12.2017 disallowing the assessee's aforesaid deduction claim. The assessee preferred its quantum lower appeal before the CIT(A), who, in his order reversed the said disallowance.

3. We are informed during the course of hearing as per the assessee's pleadings that in the meantime, hon'ble jurisdictional high court's decision in case of Pr. CIT vs. Mavilayi Service Cooperative Bank Ltd., [2019] 414 ITR 67 (Ker.) came to be pronounced in department's favour. This made the learned CIT(A) to invoke his sec.154 rectification

jurisdiction to recall his foregoing order allowing the assessee's appeal. There is hardly any dispute between the parties that it is in consequence to the said rectification that the assessee has been held to have furnished its inaccurate particulars of income thereby inviting sec.271(1)(c) penalty under challenge.

4. We have given our thoughtful consideration to the vehement rival stands against and in support of the impugned penalty. There would be hardly any dispute between the parties *qua* the clinching fact that hon'ble apex court's recent landmark decision in Mavilayi Service Cooperative Bank Ltd., vs. CIT [2021] 431 ITR 1 (SC) has already reversed the hon'ble jurisdictional high court's decision forming the basis of the CIT(A)'s rectification withdrawing the relief granted to the taxpayer u/sec.80P of the Act. This is indeed apart from the fact that we find that case law CIT vs., Reliance Petro Products [2010] 322 ITR 158 (SC) would also apply herein as it is only an instance of a quantum disallowance simplicitor than that of furnishing of inaccurate particulars. We thus accept the assessee's instant penalty appeal on both these counts. Ordered accordingly.

5. Delay of 51 days in filing the instant appeal 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.

6. This assessee's appeal is allowed in above terms and the stay application SA.No.177/Coch./2023 of the assessee dismissed as stand rendered academic. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on this 7th day of November, 2024.

Sd/-

(AMARJIT SINGH)

ACCOUNTANT MEMBER

Cochin ; Dated : 7th November, 2024.

VBP/-

Copy to :

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

Sd/-

(SATBEER SINGH GODARA)

JUDICIAL MEMBER

Asst.Registrar/ITAT, Cochin