

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SOUNDARARAJAN K., JM**

**ITA No. 721/Coch/2024
Assessment Year: 2014-15**

T.J. Mathai and Company Appellant
Amigo House, Thoundayil Road
Cochin 682036
[PAN: AAHFT6856C]

vs.

The Income Tax Officer Respondent
Corporate Ward 2(1), Kochi

Appellant by: Smt. Parvathy Ammal, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 04.02.2025
Date of Pronouncement: 25.02.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)], dated 23.01.2024 for Assessment Year (AY) 2014-15.

2. Brief facts of the case are that the appellant is a partnership firm engaged in the business of repair (topping, maintenance, resurfacing works) of Road works for the Corporation of Cochin. The appellant did not file return of income for AY 2014-15 under

the provisions of section 139(1) of the Act. The Income Tax Officer, Corporate Ward-2(1), Kochi issued a notice u/s. 148 of the Act on 30.03.2021. In response to the notice, the appellant filed return of income on 13.04.2021 declaring total income at Rs. 37,41,790/-. Against the said return of income, the assessment was completed by the AO vide order dated 24.03.2022 passed u/s. 144 at a total income of Rs. 37,41,790/- and levied penalty u/s. 271B for not filing the audit report with the due date.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. At the outset we find that there is a delay of 138 days in filing the present appeal. The appellant filed petition for condonation of delay along with an affidavit explaining the reasons for the delay. On a perusal of the averments made in the affidavit it is evident that the appellant is prevented by reasonable cause from filing the appeal. Therefore, we condone the and admit the appeal for adjudication.

6. The sole issue in the present appeal is whether the CIT(A) is justified in confirming the penalty of Rs. 1,50,000/- levied by the AO u/s. 271B of the Act for not filing the tax audit report within the prescribed time limit. It is submitted before the CIT(A) that delay in

getting the accounts audited occurred due to the death of the Managing Partner, who was aged 84. The CIT(A) dismissed the appeal stating that the death of the managing partner a year ago has no bearing, especially in all the subsequent years accounts are audited and return was filed in time. We find that assessment for the year under consideration was completed without making any addition. This fact would go to show that no prejudice was caused to the Revenue on account of delay in submission of the tax audit report. In identical circumstances the Hon'ble Kerala High Court in the case of Chavakkad Service Co-op. Bank Ltd. [2024] 169 taxmann.com 45 (Kerala) deleted penalty. Respectfully following the decision of the Hon'ble Jurisdictional High Court we delete the penalty of Rs. 1,50,000/- levied u/s. 271B of the Act.

7. In the result, appeal of the assessee stands dismissed.

Order pronounced in the open court on 25th February, 2025.

Sd/-
(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 25th February, 2025

n.p.

Copy to:

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

Assistant Registrar
ITAT, Cochin