

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

**BEFORE SHRI GEORGE GEORGE K., VP
AND SHRI INTURI RAMA RAO, AM**

**ITA No. 818 /Coch/2024
Assessment Year: 2014-15**

Able Group Trading Contractors Appellant
Door No. 10/477, Cheruvady, Mukkom
Mavoor, Kozhikode 673661
[PAN: AAOFA1874C]

vs.

The Jt. Commissioner of Income Tax Respondent
Range -2, Kozhikode

Appellant by: Shri M. Ramkumar Menon, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 13.05.2025
Date of Pronouncement: 14.05.2025

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 28.06.2024 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 execution of civil contracts. The return of income for 2014-15 was filed on 29.03.2016 disclosing total income of Rs. 9,64,020/-. Against the said return of income, the assessment was completed by the JCIT, Range-2, Kozhikode

(hereinafter called "the AO") vide order dated 26.12.2016 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 1,60,76, 630/-. While doing so, the AO made addition of Rs. 1,51,12,612/- disbelieving the genuineness of the loan creditors. The AO also found that during the previous year relevant to the assessment year under consideration the appellant had repaid loans to one Mr. Babu, Gopukripa, Pantheerankavu, Calicut in violation of provisions of section 269T of the Act. Accordingly levied penalty of Rs. 5,00,000/- u/s. 271E of the Act vide order dated 26.09.2017 rejecting the explanation of the appellant that the said loan amount was repaid through journal entries, for failure of the assessee to substantiate the same.

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. The learned counsel for the assessee submitted before us that the subject loans were treated as income of the appellant firm u/s. 68 of the Act in the assessment of the firm. The additions were being subject matter of appeal before the CIT(A), which is still pending disposal. Therefore, it is submitted that the present appeal wherein the levy of penalty u/s. 271E of the Act is challenged may also be restored to the file of the CIT(A) to decide the issue of levy of

penalty based on the outcome of the quantum appeal pending before the CIT(A).

6. On the other hand, the Id. Sr. DR did not raise any serious objection for remand of the matter to the file of the CIT(A) on the lines indicated above.

7. We have heard rival contentions and perused the material available on record. In the circumstances stated supra we remand the matter back to the file of CIT(A) to dispose of the appeal based on the outcome of the quantum appeal pending before the CIT(A).

8. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 14th May, 2025.

Sd/-
GEORGE GEORGE K.
VICE PRESIDENT

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 14th May, 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