

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.99/Coch/2025 : Asst.Year 2013-2014
ITA No.100/Coch/2025 : Asst.Year 2014-2015
ITA No.101/Coch/2025 : Asst.Year 2015-2016
ITA No.102/Coch/2025 : Asst.Year 2016-2017
ITA No.103/Coch/2025 : Asst.Year 2017-2018
ITA No.104/Coch/2025 : Asst.Year 2018-2019

Puthan Purayil Abdurahiman Tajus Residency, Kannur Road West Hill, Kozhikode – 673 005. PAN : AKPPA0229G.	v.	The Assistant Commissioner of Income-tax, Cen.Cir.2 Kozhikode.
(Appellant)		(Respondent)

Appellant by : Sri.Arun Raj S, Advocate
Respondent by : Smt.Leena Lal, Sr.AR

Date of Hearing : 29.05.2025	Date of Pronouncement : 30.05.2025
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ORDER

Per Prakash Chand Yadav, JM :

These appeals filed by the assessee are directed against different orders of the Commissioner of Income-tax (Appeals)-3, Kochi [“CIT(A)” for short], all dated 24.10.2024, confirming penalty u/s.271(1)(c) of the Income-tax Act, 1961 (“the Act” hereinafter).

2. Since identical facts and issues are involved in all these appeals, they were heard together and are being disposed of vide consolidated order. For the sake of clarity and convenience, the facts relating to

appeal bearing ITA No.99/Coch/2025 for assessment year 2013-2014 are stated hereunder.

3. The brief facts of the case are that the appellant is an individual. The original return of income for the assessment year 2013-2014 was filed on 15th July, 2013 declaring total income of Rs.3,66,650. Subsequently, during the course of search and seizure proceedings in the case of one Malabar Group of Companies conducted u/s.132 of the Act, it was stated that certain incriminating material relating to the appellant was stated to have been found and seized. Based on such incriminating material, the Assessing Officer ("the AO" hereinafter) issued notice u/s.153C of the Act on 08.05.2021. In response to the notice issued u/s.153C of the Act, the appellant did not file any return of income.

4. Against the said return of income, the assessment was completed by the AO vide order dated 6th March, 2022 passed u/s. 153C r.w.s. 144 of the Act accepting the returned income at Rs.13,78,550. Thereafter, the AO initiated penalty proceedings u/s.271(1)(c) of the Act vide show cause notice dated 15th March, 2022. In response to the show cause notice, it is submitted that the disclosure of additional income in response to notice u/s.153C of the Act is voluntary and is not based on the seized material, and therefore, the appellant is not in guilty of concealing any particulars of income, and therefore, the penalty was not exigible u/s.271(1)(c) of the Act. It is further contented that merely because the appellant is agreed to the additional income, it cannot be presumed that the appellant had concealed particulars of income, by

placing reliance on the judgment of the Hon'ble Supreme Court in the case of Sir Shadilal Sugar & General Mills Ltd. v. CIT. The AO rejecting the above explanation of the appellant and placing the decision of the Hon'ble Supreme Court in the case of MAK Data Private Limited v. CIT held that the appellant is guilty of concealing particulars of income and levied penalty of Rs.2,21,692 vide order dated 23rd September, 2022.

5. Being aggrieved by the above order, an appeal was filed before the CIT(A), who vide the impugned order confirmed the penalty levied u/s.271(1)(c) of the Act.

6. Being aggrieved by the above order of the CIT(A), the appellant is before us in the present appeal.

7. We heard rival submissions and perused the material available on record. On a mere reading of the orders of the authorities below, it would be clear that the lower authorities had failed to discuss the evidences found as a result of search and seizure in the case of Malabar Group of companies, which led to the unearthing of the undisclosed income in the hands of the appellant. The AO also not discussed as to how the seized material led to unearthing of the undisclosed income and how the seized material in the case of Malabar Group of companies has relation to the appellant herein. Merely because the appellant has disclosed additional income in response to notice u/s.153C of the Act, it cannot lead to the conclusion that the appellant is guilty of concealing the particular of income or guilty of concealment of income. It is the case of assessment made u/s.153C of the Act, pursuant to the initiation

of search and seizure in the case of a third person. In the above circumstances, we remit the matter back to the file of the CIT (A) for de novo disposal of the appeal in accordance with law after affording a reasonable opportunity of being heard to the assessee.

8. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 30th day of May, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 30th May, 2025.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin