

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV., JM**

**ITA Nos. 28 & 80 to 82/Coch/2025  
Assessment Years: 2013-14 to 2016-17**

Valsan Chiyabath ..... Appellant  
Yashus, GRA 28, Gandhi Nagar, Behind  
Metropolitan Hospital, Thrissur 680007  
[PAN: AACPN3842K]

vs.

DCIT, Circle - 1(1) & TPS, Thrissur ..... Respondent

Appellant by: ----- None -----  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 26.05.2025  
Date of Pronouncement: 30.05.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

These appeals filed by the assessee are directed against the different orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 14.11.2024 for AY 2013-14 and 27.11.2024 for Assessment Years (AY) 2014-15 to 2016-17 confirming levy of penalty u/s. 271(1)(c) of Income Tax Act, 1961 (hereinafter "the Act").

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 28/Coch/2025 for AY 2013-14 are stated herein.

4. Brief facts of the case are that the appellant is an individual, had not filed regular return of income for AY 2013-14 under the provisions of section 139(1) of the Act. The AO formed an opinion that income escaped assessment to tax on the basis of information contained on ITBA portal that the assessee received interest income, commission on brokerage, salary, etc. Accordingly, a notice u/s. 148 of the Act was issued on 24.03. 2021. In response to the notice u/s. 148, return of income was filed on 24.03.2021 declaring income of Rs. 63,06,068/-. Against the said return of income, the assessment was completed by the DCIT, Circle-1(1), Thrissur (hereinafter called "the AO") vide order dated 24.03.2022 u/s. 147 r.w.s. 144B of the Act accepting the returned income. The AO initiated proceedings u/s. 271(1)(c) of the Act by holding that the assessee is guilty of concealing income. Accordingly, a show cause notice was issued to the appellant u/s. 273 r.w.s. 271(1)(c) of the Act. In response to the show notice the appellant submits that the return of income u/s. 139(1) could not be filed due to personal problems and there was no deliberate concealment of income, therefore, no penalty should be levied. Considering the above explanation, the AO proceeded with levy of penalty u/s. 271(1)(c) of the Act placing reliance on the decision of the Hon'ble Supreme Court in the case of

Union of India v. Dharmendra Textile Processors [2008] 166 Taxman 65 and levied penalty of Rs. 17,73,475/- vide order dated 22.09.2022.

5. Being aggrieved by the order of penalty an appeal was filed before the CIT(A), who vide the impugned order, invoking Explanation 3 inserted to section 271(1) and also on the decision of the Hon'ble Allahabad High Court in the case of Sunil Chand Gupta. CIT [2013] 35 taxmann.com 435 and Hon'ble Madras High Court in the case of Dharampal R. Pandia v. DCIT 2021 MAD 917 confirmed levy of penalty u/s. 271(1)(c) of the Act.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. When the appeal was called on nobody appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceeded to dispose of the appeal after hearing the learned Sr. DR.

8. The learned Sr. DR submits that the order passed by the CIT(A) is very reasonable one and no interference is called for.

9. The issue that arises in the present appeal is whether the CIT(A) was correct in law in upholding the levy of penalty u/s. 271(1)(c) of the Act. The undisputed facts of the case are that the appellant had not filed regular return of income under the provisions of section 139(1) of the Act. The appellant has disclosed income of

Rs. 63,06,068/-in response to notice u/s. 148 of the Act. The assessment was completed accepting the returned income. The AO also initiated penalty proceedings u/s. 271(1)(c) by recording satisfaction that the appellant had concealed income. In response to the show cause the appellant offered explanation that the appellant could not file the return of income under the provisions of section 139(1) for personal reasons and there is no deliberate intention to avoid tax. The AO rejected this explanation and proceeded with levy of penalty. On appeal before the learned CIT(A), the CIT(A) confirmed the levy of penalty placing reliance on the provisions of Explanation 3 inserted to section 271(1) of the Act and also on the judicial pronouncement the Hon'ble High Courts of Allahabad and Madras (supra). From a mere reading of Explanation 3, it is crystal clear that where the assessee fails to furnish the return of income u/s. 139(1) of the Act, it shall be deemed to have concealed particulars of income for such year notwithstanding the fact that the assessee furnished return of income pursuant to notice u/s. 148 of the Act. Furthermore, as held by the Hon'ble Supreme Court in the case of Malbary (N.A.) and Bros. [1964]51 ITR 295 (SC) that penalty u/s. 271(1)(c) is always leviable with reference to the original return of income and the penalty could also be levied with reference to concealment in original assessment proceedings. This position was reiterated again by the 3 judges judgement in the case of CIT vs. Onkar Saran and Sons [1992] 195 ITR 1. In the light of his

judgement the penalty is automatic in respect of income determined u/s. 148 of the Act in reassessment proceeding. Therefore, we do not find any infirmity, illegality and perversity in the order passed by the CIT(A). Therefore, the appeal filed by the assessee is dismissed.

10. Since identical issues are involved in all other appeals, the above findings are mutatis mutandis apply to all these appeals also.

11. In the result, the appeals filed by the assessee stand dismissed.

Order pronounced in the open court on 30<sup>th</sup> May, 2025.

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 30<sup>th</sup> 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

By Order

Assistant Registrar  
ITAT, Cochin