

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
[DELHI BENCH : “DEHRADUN/SMC” NEW DELHI]
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

I.T.A. No. 27/DDN/2025 (A.Y 2022-23)

Prachi Agarwal C/o. Sidharth Goel, Sarrafa Chowk, Ramnagar, Uttarakhand- 244715 PAN: AGKPA2528D	Vs.	DC/ACIT Cent Haldwani at MRT, Room No. 4, 2 nd Floor Aayakar Parishar, HLD, REAC, Haldwani, Uttarakhand
Appellant		Respondent
Assessee by	Sh. Pranav Yadav, Adv	
Revenue by	Sh. A. S. Rana, Sr. DR	
Date of Hearing	09/07/2025	
Date of Pronouncement	09/07/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of CIT(A)/National Faceless Appeal Centre ('Ld. CIT(A)'/NFAC' for short), Delhi dated 27/01/2025 for the Assessment Year 2022-23.

2. Brief facts of the case are that, a penalty order u/s 271B of the Income Tax Act, 1961 ('Act' for short) came to be passed on 27/09/2024 on the pretext that the Assessee has not filed audited books of account within the due date i.e 07/10/2022. Aggrieved by the order of the penalty, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 27/01/2025, dismissed the Appeal of the

Assessee by confirming the order of the penalty. As against the order of the Ld. CIT(A), the Assessee preferred the present Appeal.

3. The Ld. Counsel for the Assessee vehemently submitted that the Assessee could not finalize his books of account before due date i.e. 07/10/2022 due to the fact that the Investigating Wing had impounded certain documents and even after making several requests for providing the photo copies of those impounded documents, the Investigating Wing has not provided those documents on time, which resulted in preparing the audit report belatedly. The Ld. Counsel submitted that the Assessee has filed the audit report on 19/04/2023, which is well within passing of the assessment order u/s 147 r.w. Section 143(3) of the Act. Thus, relying on plethora of Judgments, sought for deletion of the penalty which has been confirmed by the Ld. CIT(A) vide order impugned.

4. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities, submitted that the prescribed date for filing the audited books of account was 30/09/2022, whereas books of account was audited only on 04/04/2023, therefore, the Assessee is liable for penal action u/s 271(B) of the Act, thus submitted that the present Appeal is liable to be dismissed.

5. We have heard both the parties and perused the material available on record. It was the case of the Assessee that the audited books of account of the Assessee could not be audited within the due date as the documents were seized by the Department for the year under consideration, which resulted in delay in preparing the audit statement. Apart from the same, the audited books of account have been filed by the Assessee filed on 19/04/2023, whereas the assessment order came to be passed on 24/03/2024. The Hon'ble High Court of Kerala in the case of the Chavakkad Service Co-operative bank ltd., the Elavally service Co-operative Bank Ltd., Kundayam service co-operative bank ltd., the Paravur service co-operative bank ltd. V/s. The income tax officer ward 1 & TPS, Vide Judgment dated 22/11/2204, in the similar circumstances, decided the issues in favour of the Assessee by deleting the penalty. In the said case, the assessee did not file the Report as mandated under section 44AB within time limit specified thereunder, however, audit reports were made available before Assessing Authority at time of finalization of assessments. Since delay in obtaining audit reports from statutory auditors under Kerala Co-operative Societies Act and Rules could be seen as a reasonable cause for delayed submission of audit reports held that no penalty under section 271B was to be imposed on assessee.

6. In the present case, the Assessee was having reasonable cause for delayed submission of audit reports and the same has been filed well within passing the assessment order. Therefore, by respectfully following the above ratio laid down by the Hon'ble High Court of Kerala in the case of Chavakkad Service Co-operative bank Ltd (supra), we delete the penalty imposed by the Department which has been confirmed by the Ld. CIT(A).

7. In the result, the appeal of the Assessee is allowed.

Order pronounced in the open court on 09th July , 2025

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:- 09.07.2025
R.N, Sr.P.S*

Copy forwarded to:

1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**

