

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM  
AND SONJOY SARMA, JM****ITA No.121/Coch/2025  
Assessment Year: 2017-18**

KVN Petro Products ..... Appellant  
V-421/B, Opp. Nallam Police Station,  
Nallam, Kerala-673027.  
PAN: AAHFK4721H

vs.

Income Tax Officer ..... Respondent  
Ward-1(2),  
Kozhikode.

Appellant by: Shri Santosh Pai, CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.06.2025  
Date of Pronouncement: 30.06.2025

**ORDER****Per: Inturi Rama Rao, AM**

This appeal filed by the assessee firm is directed against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 09/12/2024 for Assessment Year (AY) 2017-18.

2. Briefly the facts of the case are that the appellant is a partnership firm engaged in the business of dealing in petroleum products. During the course

of the assessment proceedings, the National Faceless Assessment Centre, Delhi (hereinafter referred to as “Assessing Authority”) found that the appellant is liable to get the accounts audited U/s. 44AB of the Act as the turnover of the appellant is exceeding the prescribed limit for the year under consideration. However, the appellant firm had not filed the prescribed Audit Report U/s. 44AB within the due date specified therein. But, the audit report was filed by the appellant on 24/03/2018. In these circumstances, the Assessing Authority issued a show cause notice U/s. 274 r.w.s 271B of the Income Tax Act, 1961 (in short “the Act”) on 14/11/2019. In response to the said show cause notice, the appellant had filed explanation stating that the delay in getting the accounts audited U/s.44AB of the Act had occurred on account of work pressure on the Chartered Accountants following the demonetization and introduction of GST Act. However, the Assessing Authority has proceeded to levy the penalty U/s. 271B of the Act of Rs. 1,50,000/- vide order dated 26/01/2022.

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

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

5. We heard the rival submissions and perused the material available on record. The short issue that arises for our consideration is whether the CIT(A) was justified in confirming the levy of penalty U/s. 271B of the Act.

Undisputedly, the appellant was liable to get the accounts audited under the provisions of section 44AB of the Act. The appellant had filed the Audit Report on 24/03/2018 whereas the assessment proceedings were completed on 14/11/2019 which means that the Tax Audit Report was very much available before the Assessing Authority at the time of framing the assessment. Thus, no prejudice is caused to the Revenue on account of delayed submission of the Tax Audit Report and in such circumstances, penalty cannot be levied U/s. 271B of the Act, as held by the Hon'ble Jurisdictional High Court in the case of Chavakkad Service Co-op. Bank Ltd. [2024] 169 taxmann.com 45 (Kerala) has observed as under: -

*“Where assessee co-operative societies did not file audit 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, no penalty under section 271B was to be imposed on assessee.”*

6. The facts of the case on hand are identical as discussed above. Thus, respectfully following the same, we delete the penalty levied U/s. 271B of the Act.

7. In the result, appeal filed by the assessee is allowed.

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

Sd/-  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

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

Cochin, Dated: 30<sup>th</sup> June, 2025

*okk sps*

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