

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER AND
SHRI SONJOY SARMA, JUDICIAL MEMBER**

I.T.A. No.382/COCH/2025

Assessment Year: 2012-13

Avinissery Service Co-Operative Bank Ltd.....Appellant
Anakallu, P.O Avinissery
Thrissur – 680306.
[PAN:AACAA0093Q]

vs.

ITO, Ward-2(1), Thrissur.....Respondent

Appearances by:

Shri Alan Dev, Advocate, appeared on behalf of the assessee.

Smt. Leena Lal, SNR AR, appeared on behalf of the Revenue.

Date of concluding the hearing :June 04, 2025

Date of pronouncing the order :July 22, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), NFAC, dated 06.03.2025], confirming the penalty of Rs.1,50,000 imposed under section 271B of the Income-tax Act, 1961, for the assessment year 2012-13.

2. At the outset, the Id. AR submitted that there is a delay of 15 days in filing the instant appeal. The assessee has filed application for condonation of delay citing valid and proper reasons. After considering the averments made in the application, we condone the delay in the appeal.

3. Brief Facts of the Case are that the assessee is a co-operative society engaged in providing credit facilities to its members. It did not file its return of income under section 139 of the Act but filed the same in response to notice issued under section 148 on 16.05.2019, declaring income after claiming deduction under Chapter VI-A. The return was

accompanied by audited financials filed manually in July 2019. The Assessing Officer completed the reassessment under section 143(3) read with section 147 of the Act on 31.12.2019, determining a total income of Rs.1,56,08,560. During the proceedings, it was observed that the assessee failed to furnish the audit report within the due date as prescribed under section 139(1), without any reasonable cause. Accordingly, penalty of Rs.1,50,000 was imposed under section 271B of the Act vide order Dated 05.02.2021.

4. Aggrieved by the penalty order dated 05.02.2021, the assessee preferred an appeal before the CIT(A), which was dismissed.

5. The assessee has now approached the Tribunal challenging the order of Id. CIT(A). The primary contention raised by the assessee is that the assessee, being a co-operative society registered under the Kerala Co-operative Societies Act, is mandatorily audited by the statutory auditors appointed by the Registrar of Co- operative Societies, Kerala. The delay in furnishing the audit report was solely due to the delayed audit by the said statutory authorities, over which the assessee had no control. The audit report was received by the assessee belatedly. The assessee submitted that the delay was neither deliberate nor due to negligence, and was supported by reasonable cause, as required under section 273B of the Act. It was also brought to our attention that the audit report was submitted before the completion of the reassessment proceedings under section 147. The Id AR placed reliance on the decision of the Cochin Bench of the Tribunal in the case of Adat Farmers Service Co-operative Bank Ltd. vs. ITO in ITA No. 335/Coch/2023, wherein under similar circumstances, the Tribunal had deleted the penalty levied under section 271B of the Act accepting the explanation that the audit was delayed due to the State co-operative audit process and was beyond the control of the assessee.

6. Per contra, the learned Departmental Representative relied upon the orders of the lower authorities.

7. We have heard the rival submissions and perused the material available on record. It is an undisputed fact that the assessee is a co-operative society subject to mandatory audit under the Kerala Co-operative Societies Act. The audit is conducted by statutory auditors appointed by the Registrar of Co-operative Societies and the assessee does not have any authority to independently appoint external auditors for the same. In the present case, the audit report was eventually received and submitted manually before the reassessment was completed, and there is no dispute regarding its authenticity of the same. We, after considering the facts of the case, find that the explanation provided by the assessee constitutes a reasonable cause under section 273B of the Act for such delay in filing the audit report in time and following the decision of the Coordinate Bench in Adat Farmers Service Co-operative Bank Ltd. (supra), we find no justification in sustaining the penalty under section 271B. Accordingly, we set aside the orders of the lower authorities and direct the Assessing Officer to delete the penalty of Rs.1,50,000 imposed under section 271B.

8. In the result, the appeal of the assessee is allowed.

Kolkata, the 22nd July, 2025.

Sd/-

[Inturi Rama Rao]

लेखा सदस्य/**Accountant Member**

Dated: 22.07.2025.

Copy of the order forwarded to:

1. Appellant -
2. Respondent -`
4. CIT
5. CIT(DR),

//True copy//

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/**Judicial Member**

By order

Assistant Registrar/Sr. PS, Cochin Benches