

IN THE INCOMETAX APPELLATE TRIBUNAL
COCHIN BENCH

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

ITA Nos. 134 to 137 & 138/Coch/2025

[Assessment Years: 2013–14 to 2016–17 & 2018-19]

Koothery Narayanan Vijayan.....Appellant
Advocate Vishnu Vijayan,
Room No.1814, Commercial Complex,
Koduvayur Service Cooperative Bank Ltd.,
Koduvayur PO,
Kerala – 678501.
[PAN:ABNPV1151H]

vs.

ITO, Non Corp Ward-2(4)& TPS, Kochi.....Respondent

SA Nos. 19 to 22 & 23/Coch/2025

[Assessment Years: 2013–14 to 2016–17 & 2018-19]

Koothery Narayanan Vijayan.....Appellant
Advocate Vishnu Vijayan,
Room No.1814, Commercial Complex,
Koduvayur Service Cooperative Bank Ltd.,
Koduvayur PO,
Kerala – 678501.
[PAN: ABNPV1151H]

vs.

ITO, Non Corp Ward-2(4) & TPS, Kochi.....Respondent

Appearances by:

Shri Vishnu Vijayan, Adv, appeared on behalf of the assessee.
Smt. Leena Lal, Snr AR, appeared on behalf of the Revenue.

Date of concluding the hearing: June11, 2025

Date of pronouncing the order: August 26, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

These first four appeals by the assessee and the connected stay applications arise out of penalty orders passed under section 271(1)(c) of the Income-tax Act, 1961 for assessment years 2013-14 to 2016-17 and

ITA Nos. 138/Coch/2025 along with connected stay applications arise out of penalty orders passed under section 270A of the Income-tax Act, 1961 for all relevant assessment years. Since common issues are involved, except for differences in figures and years, these appeals are heard together and are disposed of by this consolidated order. For convenience, ITA No.134/Coch/2025 for AY 2013-14 is taken as the lead case, and our findings therein shall apply mutatis mutandis to the other appeals.

2. Brief facts of the Case are that in the case of the assessee for the assessment years in question, the Department received information that the assessee was in receipt of substantial amounts of contract receipts, cash deposits in bank accounts, and interest income. However, no return of income was filed for the respective years. Consequently, assessment proceedings were initiated under section 147 of the Act. Notices under sections 148, 143(2) and 142(1) of the Act were issued. The assessee failed to file any return of income in response to notice under section 148 of the Act and did not comply with notices during reassessment proceedings. Accordingly, the assessments were completed ex parte under sections 147/144 of the Act by making additions on account of undisclosed income. Doing so the Assessing Officer also initiated penalty proceedings under section 271(1)(c) for concealment of income and levied penalties. For AY 2013-14, penalty of Rs.1,49,07,713/- was imposed.

3. Aggrieved by the order of the AO the assessee preferred appeal before the Ld. CIT(A). During the appellate proceedings, the Ld. CIT(A) noted that the assessee, despite having substantial income, failed to file return within the time allowed under section 139(1) or in response to notices under section 148. Since, there was no response to notices issued during reassessment proceedings, resulting in ex parte

assessments. Even during penalty appeal proceedings, the assessee remained non-compliant, except for filing an additional ground much later challenging the jurisdiction of the AO. The assessee contended that the penalty was without jurisdiction as per the Act. However, the Ld. CIT(A) rejected the plea, holding that such jurisdictional objections must be raised at the assessment stage and not after the conclusion of assessment and penalty proceedings. While deciding the quantum appeals earlier, the CIT(A) had partly allowed relief to the assessee and directed the AO to pass the order giving effect (OGE). The Ld. CIT(A) in penalty appeals observed that concealment of income was proved beyond doubt and upheld the penalties, with a direction to the AO to recompute the same in line with the OGE.

4. Dissatisfied with the above order, assessee is in appeal before this tribunal. The learned counsel for the assessee reiterated the jurisdictional objection and challenged the levy of penalty. It was submitted that the additional ground should have been entertained in the interest of justice.

5. On the other hand, the learned Departmental Representative supported the orders of the lower authorities and submitted that the assessee consistently failed to comply with statutory notices and that the concealment stood established.

6. We have heard the rival submissions and perused the material on record. The undisputed facts are that the assessee had substantial income for all relevant years but did not file returns of income and notices under section 148 were issued, but the assessee failed to comply. Ultimately, assessments were completed ex parte under sections 147/144 of the act. In quantum appeals, partial relief was granted, but the assessee did not file appeals against penalty orders

within time and raised jurisdictional issues only after considerable delay. While passing the impugned order as held by the Id. CIT(A), section 124(3) mandates that jurisdictional objections must be raised at the earliest opportunity, and failure to do so bars such objections at a later stage. We concur with this view. According the penalty under section 271(1)(c) is justified when there is clear concealment or furnishing of inaccurate particulars. In the present case, concealment is established from the failure to disclose substantial income despite having been given multiple opportunities. Therefore, we find no infirmity in the order of the Ld. CIT(A) in upholding the penalty, subject to re-computation in accordance with the OGE in quantum proceedings.

7. Since facts in ITA Nos. 135 to 137/Coch/2025 are identical to ITA Nos.134/Coch/2025 these appeals are also dismissed on similar terms.

8. In ITA No. 138/Cochin/25 for the assessment year 2018-19, the penalty was levied under Section 270A of the Income tax Act, which is an amended provision. The facts of the case are similar to earlier penalty proceedings under Section 271(1)(c) of the Act. While dismissing the appeal, the Ld. CIT(A) observed that the quantum of penalty had already been adjudicated and dismissed by order dated 20-05-2024 in respect of the AO's penalty. Consequently, the Ld.CIT(A) upheld the penalty. In view of the concurrent findings of the CIT(A), the present appeal being ITA No. 138/Cochin/25 under Section 270A is also dismissed, in line with the earlier order of the CIT(A).

9. In view of the above, the all the appeals of the assessee are dismissed.

10. Since the main appeals are dismissed, the stay applications have become infructuous and are accordingly dismissed.

11. In the result, all the captioned appeals and corresponding stay applications are dismissed.

26th August, 2025

Sd/-
[Inturi Rama Rao]
लेखा सदस्य/**Accountant Member**

Sd/-
[Sonjoy Sarma]
न्यायिक सदस्य/**Judicial Member**

Dated: 26.08.2025
RS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar/Sr. PS, Cochin Benches