

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SONJOY SARMA, JM**

**ITA No. 339/Coch/2025
Assessment Year: 2016-17**

Sai Export Enterprises Appellant
Mangad P.O., Kollam 691015
[PAN: ABSFS2716A]

vs.

The Income Tax Officer, WD-1 & TPO, Kollam Respondent

Appellant by: Shri Rajakannan, Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 13.06.2025
Date of Pronouncement: 31.07.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 31.03.2024 for Assessment Year (AY) 2016-17.

2. Brief facts of the case are that the appellant is a partnership firm. It is engaged in the business of processing and export of cashew nuts. The return of income for AY 2016-17 was filed on 17.02.2017 declaring income of Rs. 42,15,670/-. Against the said return of income, the assessment was completed by the National

Faceless Assessment Centre, Delhi (hereinafter called "the AO") vide order dated 27.12.2019 passed u/s. 143(3) r.w.s. 144((13) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 56,04,300/0. While doing so, the AO made addition of an amount of Rs. 13,88,632/- being the belated remittance of employees' contribution to PF and ESE remitted beyond the due date specified in the respective Acts, but before the due date for filing the return of income. While the matter stood thus, the AO initiated penalty proceedings u/s. 274 r.w.s. 271(1)(c) of the Act for furnishing inaccurate particulars of income. In response to the show cause notice the appellant filed explanation stating that mere disallowance of claim does not amount to furnishing of inaccurate particulars of income, therefore, no penalty can be levied.

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

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

5. We have heard the rival contentions and perused the material available on record. The issue that arises in the present appeal is whether the order imposing penalty u/s. 271(1)(c) is justified or not. Penalty proceedings were initiated in respect of addition made on account of belated remittance of employees' contribution to PF & ESI but paid within the due date for filing the return of income u/s.

139(1) of the Act. The mere fact that the additions were made to the returned income by disallowing certain deductions by itself does not lead to the conclusion that the assessee concealed particulars of income or furnished incorrect particulars of income and provisions of section 271(1)(c) is not attracted. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in the case of CIT v. Reliance Petroporducts Pvt. Ltd. [2010] 322 ITR 158. Relevant portion of the judgement is extracted below: -

“ It was tried to be suggested that section 14A of the Act specifically excluded the deductions in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. It was further pointed out that the dividends from the shares did not form the part of the total income. It was, therefore, reiterated before us that the Assessing Officer had correctly reached the conclusion that since the assessee had claimed excessive deductions knowing that they are incorrect; it amounted to concealment of income. It was tried to be argued that the falsehood in accounts can take either of the two forms; (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an exaggerated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its Return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the Return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the revenue, that by itself would not, in our

opinion, attract the penalty under section 271(1)(c). If we accept the contention of the revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature.”

6. In view of the above discussion, we are of the considered opinion that the facts of the present case does not warrant levy of penalty u/s. 271(1)(c) of the Act.

Order pronounced in the open court on 31st July, 2025.

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 31st July, 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