

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI ANIKESH BANERJEE, JM**

**ITA No. 597/Coch/2025
Assessment Year: 2016-17**

DCIT, Central Circle Appellant
Aayakar Bhavan, Kawdiar, Thiruvananthapuram

vs.

Rajkumari Shopping Mall LLP Respondent
AMC 11/556, City Plaza, NH Road
Attingal 695101
[PAN: AAQFR1222B]

Assessee by: Shri V.M. Veeramani, CA
Revenue by: Shri Sanjit Kumar Das, CIT-DR

Date of Hearing: 27.10.2025
Date of Pronouncement: 29.10.2025

ORDER

Per: Anikesh Banerjee, JM

The instant appeal of the revenue was filed against the order of the Learned Commissioner of Income tax (Appeal), Kochi-3 [for brevity, 'Ld. CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, the Act') for Assessment Year 2016-17, date of order 09/06/2025. The impugned order was emanated from the order

of the Assessment Unit, Income Tax Department (in short, 'Ld.AO') passed under section 271(1)(c) of the Act, date of order 26/09/2023.

2. The brief facts of the case are that the assessee's case was assessed u/s 144 r.w.s. 263 of the Act, passed on 30/03/2023. The addition was confirmed u/s 68 of the Act related to unexplained credit amount to Rs.9,56,04,655/-. The Ld.AO initiated the penalty proceedings u/s 271(1)(c) / 274 of the Act and income of which the tax sought to be evaded amount to Rs.9.56 crores on which the tax sought to be evaded amount to Rs.2,67,23,487/-. Accordingly minimum penalty was levied @100% of tax which comes to Rs.2,67,23,487/- U/s 271(1)(c) of the Act. Being aggrieved, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) considering the validity of notice U/s 271(1)(c) of the Act deleted the penalty. Being aggrieved, the revenue preferred an appeal before us.

3. The Ld. DR argued and stated that the Ld. CIT(A), has ignored the fact that the said notice bearing a valid DIN (ITBA/PNL/S/271(1)(c) /2022-23/1051734270(1)) based on which penalty has been initiated is a system generated one where the wordings are auto populated. He further argued that without considering the fact of the case the Ld. CIT(A) passed the appellate order which is bad in law.

4. The Ld.AR argued and filed a written submission, containing pages 1 to 33, which is kept on record. The Ld.AR first argued the legal issue related to jurisdiction for issuance of notice by the Ld.AO u/s 274 without specifying the limb under which the penalty was being initiated. The relevant notice dated 31/03/2023 is annexed in **APB page 6**.

5. The Ld. AR invited our attention in impugned appellate order page 11 to 13. The relevant paragraphs are reproduced as below.

“4.1. The appellant has contended that the notices issued by the Assessing Officer for imposing penalty u/s. 271(1)(c) of the Act has not specifically mentioned whether the penalty is proposed in respect of concealment of income or for furnishing inaccurate particulars of income. The appellant contended that in the absence of specific and particular mentioning of the reason for the penalty, the penalty notice itself is invalid and as a result the imposition of penalty u/s.271(1)(c), without specific finding, is illegal and liable to be cancelled. The appellant has also cited various judicial pronouncements to support his stand. Further, during the course of proceedings, the appellant has specifically relied upon the decision of the Hon'ble High Court of Kerala in the case of Principal Commissioner of Income Tax Vs. Ambadi Krishna Menon (163 taxmann.com 141)(Ker). In support of its claims, the AR of the appellant has filed a copy of the notice u/s.274 r.w.s. 271(1)(c) of the IT Act dated 31/03/2023, issued by the AO to the appellant.

“concealing of income and/or furnishing of inaccurate particulars of income” without striking off the irrelevant portion. This ambiguity clearly violates the mandatory requirement of law and the principles of natural justice. We are therefore unable to accept the contention of the revenue that such defect is a mere technicality, particularly when penalty provisions under section 271(1)(c) of the Act carry severe and penal consequences. In the absence of a valid notice specifying the exact charge, the penalty proceedings themselves are rendered void ab initio. The Ld. DR was unable to controvert the arguments advanced by the Ld. AR by placing on record any contrary judicial precedent. Respectfully following the ratio laid down in the above judicial precedents, we hold that the penalty order passed under section 271(1)(c) of the Act is not sustainable in law. Accordingly, we upheld the order of the appellate authority and direct the Ld. AO to delete the penalty of Rs. 2,67,23,487/-.

In the result, the appeal of the revenue is dismissed.

7. In the result, the appeal filed by the revenue bearing **ITA No. 597/Coch/2025** is dismissed.

Order pronounced in the open court on 29th October, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER
Cochin, Dated: 29th October, 2025

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

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