

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

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

ITA No. 639/Coch/2025

Assessment Year: 2017-18

Kollam District Police Department Appellant
Employees Co-operative Society
Lt No Q 1179, Near S P Office, Kollam-691001
[PAN: AACAK5573H]

vs.

Assessment Unit, Income Tax Department Respondent

Assessee by: Shri Surendranath Rao, CA
Revenue by: Smt. Leena Lal, Sr. D.R.

ITA No. 605/Coch/2025

Assessment Year: 2013-14

Porkulam Service Co-op. Bank Ltd. Appellant
(VIA) Pazhanji, Thalappilly, Thrissur- 680542
[PAN: AAAAP4486A]

vs.

The Income Tax Officer, W-1& TPS Respondent

Assessee by: ----- None -----
Revenue by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 29.10.2025
Date of Pronouncement: 30.10.2025

ORDER

Per: Anikesh Banerjee, JM

The instant appeal of both the assessee was filed against the order of the Learned National Faceless Appeal Centre, Delhi [for brevity, 'Ld. CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, the Act) for Assessment Year 2017-18, date of order 10/07/2025 for petitioner-1 & for Assessment year 2013-14, date of order 25/06/2025 for petitioner-2. The impugned orders were emanated from the order of the Assessment Unit, Income Tax Department (in short, 'Ld. AO') order passed under section 271B of the Act, date of order 12/07/2023 for AY petitioner-1 & 19/09/2022 for petitioner-2.

2. Both the appeals have common issue and common fact. So, we proceed to dispose off by common order. **ITA No. 639/Coch/2025** is taken as lead case.

3. The assessee is a cooperative bank and filed the return U/s 139(1) of the Act. The assessee claimed deduction under section 80P(2)(a) of the Act in its return filed on dated 19/02/2018. The assessee's case was selected for scrutiny and the assessment was completed under section 143(3) of the Act on 13/12/2019. During the assessment proceeding the Ld. AO found that the assessee is liable to audit its books of accounts under section 44AB of the Act. But the assessee was in delay to file the Tax Audit Report (in short

“TAR”) under section 44AB of the Act. Due date for filing TAR was 30/09/2017 which was further extended up to 07/11/2017. But the TAR was filed on dated 06/02/2018. After completion of assessment proceeding, the Ld. AO initiated penalty proceeding for non-filing of TAR within due date under section 271B of the Act and issued notice accordingly. The assessee comply the notices related to penalty proceeding but finally the penalty was imposed amount to Rs.1,50,000/- under section 271B of the Act. The aggrieved assessee filed an appeal before the Ld. CIT(A). But the Ld. CIT(A) upheld the impugned penalty order. Being aggrieved the assessee filed an appeal before us.

4. During the hearing before the bench the Ld. AR argued & stated that the assessment was completed on 19/12/2019 but the TAR was filed belatedly on 06/02/2018. The Ld. AR explained that Audit Report from Co-operative department was received by the assessee on 29/01/2018. But at the time of assessment proceeding the said report was available before the Ld. AO.

5. The Ld. AR respectfully relied on the order of Hon'ble **High Court of Kerala** in **Chavakkad Service Co-Operative Bank Ltd. v. ITO, [2024] 169 taxmann.com 45 (Kerala)**. Held 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 Ld. DR argued and stood in favour of the orders of revenue authorities. But unable to bring any contrary judgment against the submission of the Ld. AR.

7. We have heard the rival submissions and perused the material available on record. We find that the issue in dispute is squarely covered by the decision of the Hon'ble Kerala High Court in the case of **Chavakkad Service Co-operative Bank Ltd.** (supra). Respectfully following the ratio laid down by the Hon'ble Jurisdictional High Court, we hold that the penalty levied under section 271B of the Act amounting to Rs.1,50,000/- is unsustainable in law and on facts. Accordingly, the penalty imposed under section 271B of the Act is hereby quashed.

ITA No. 605/Coch/2025

8. The facts and circumstances being identical with ITA No. 639/Coch/2025, so the decision arrived in above shall apply mutatis mutandis to ITA No. 605/Coch/2025 also.

9. In the result, the appeal filed by the assessee bearing **ITA No. 605 & 639/Coch/2025** is allowed.

Order pronounced in the open court on 30th October, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Cochin, Dated: 30th October, 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