

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 641/Coch/2024  
Assessment Year: 2018-19**

The Cardamon Planters Marketing ..... Appellant  
Co-op Society Ltd.  
Spice House, Thekkady Road  
Kumily 685509  
[PAN: AACAT9560F]

Vs.

DCIT, Circle TPS ..... Respondent  
Kottayam

Appellant by: Shri R. Krishnan, CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 17.12.2024  
Date of Pronouncement: 21.01.2025

**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 26.06.2024 for Assessment Year (AY) 2018-19.

2. Brief facts of the case are that the appellant AOP filed its return of income for AY 2018-19 on 18.10.2018 declaring total income of Rs. 1,20,22,050/-. Against the said return of income, the

assessment was completed by the National e-Assessment Centre (hereafter “the AO) vide order dated 20.04.2021 passed u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 (the Act) at a total income of Rs. 1,82,70,297/- by making and addition of Rs. 62,48,247/- being the difference between the 80P deduction claimed by the assessee and the 80P deduction allowed. The AO also initiated penalty proceedings u/s. 270A of the Act. The application moved by the appellant for grant of immunity from levy of penalty was denied for the failure of the assessee to file the prescribed application before the jurisdictional AO in Form 28 within one month from the end of the month in which the order was received. Therefore the AO proceeded with the levy of penalty u/s. 270A of the Act vide order dated 03.02.2022 by levying penalty of Rs. 10,81,197/-.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the penalty without dealing with the issue of immunity sought by the assessee.

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

5. We have heard the rival contentions of both the parties and perused the material available on record. The appellant sought immunity from levy of penalty in terms of provisions of section 270A of the Act. Either the AO or the CIT(A), without dealing with the issue of immunity, had merely levied and confirmed the penalty.

In the circumstances, we are of the considered opinion that the ends of justice would be met if the matter is restored to the file of the AO to consider the application for immunity filed by the assessee on merits. We make it clear that all the contentions that are raised before us by the assessee are kept open before the AO.

6. In the result, the appeal filed by the assessee stands partly allowed.

7. Order pronounced in the open court on 21<sup>st</sup> January, 2025.

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 21<sup>st</sup> January, 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