

## Penalty levied on 'Muthoot bankers' as it failed to establish reasonable cause for not complying with TDS provisions

**Summary – The High Court of Kerala in a recent case of Muthoot Bankers (Aryasala)., (the Assessee) held that On failure to establish reasonable cause for failure to deduct tax at source u/s 194A, penalty was to be levied**

### Facts

- The assessee was engaged in money lending. It had not deducted tax at source as required under section 194A on the payments of interest it made to its sister concerns. Therefore, proceedings under section 271C were initiated. In the reply filed, the assessee admitted its lapse and requested that a lenient view should be taken for the technical lapse.
- However, the Assessing Officer levied penalty under section 271C.
- On appeal, the Commissioner (Appeals) cancelled the order of the Assessing Officer by holding that the Assessing Officer did not establish the absence of reasonable cause in this case.
- On further appeal, the Tribunal confirmed the order of the Commissioner (Appeals).
- On the revenue's appeal before the High Court:

### Held

- It was the admitted case of the assessee that they did not deduct tax at source as required by them under section 194A. When there is a failure on the part of the assessee to deduct tax at source in violation of section 194A, the penal provisions of section 271C are attracted. In such a case, the only way out for the assessee is to take the benefit of section 273B by establishing that there was reasonable cause justifying their failure to comply with section 194A.
- In this case, the order of the Joint Commissioner shows that the assessee failed to produce any evidence to substantiate its claims. However, the Commissioner (Appeals) decided the issue by putting the burden on the revenue, which is evident from order passed by the Commissioner. The order of the Tribunal shows that the Tribunal has given totally different reasons which are mere surmises and assumptions made by it and are not found on any materials that were made available by the assessee. All this therefore show that the assessee had not established a reasonable cause, as contemplated in section 273B to resist an order of penalty under section 271C.