Mohit Maski vs The Income Tax Department on 3 August, 2026

Author: Ravi V Hosmani

Bench: Ravi V Hosmani

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HC-KAR NC: 2026:KHC:40582
CRL.P No. 5923 of 2019

CNR: KAHC010277562019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 5923 OF 2019

BETWEEN:
MOHIT MASKI
S/O. MR. MANOHAR MASKI,
AGED ABOUT 30 YEARS,
CHAIRMAN,
SUCO SOUHARDHA
SAHAKARI BANK LTD.,
R/A NO.126/1, MASKI,
LINGASUR TALUK,
RAICHUR - 584 124.
ALSO AT M/s. SUCO SOUHARDA
SAHAKARI BANK LTD.,
SUCO BHAVAN,
GANDHINAGAR, MOKA ROAD,
BELLARY - 583 101.

...PETITIONER

(BY SMT. NALINA MAYEGOWDA, SR. COUNSEL FOR
SRI MANJUNATHA H., ADVOCATE)

AND:

THE INCOME TAX DEPARTMENT
BY ITS ASST. DIRECTOR OF
INCOME-TAX (I & CI)-1,
C.R. BUILDING (ANNEXE),
QUEENS ROAD,

BENGALURU - 560 001.
REPRESENTED BY
K.SURESH BABU
ASSISTANT DIRECTOR,
INCOME TAX (I & CI).

...RESPONDENT

(BY SRI RAVI RAJ Y V., ADVOCATE)

CNR: KAHC010277562019

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE COMPLAINT DATED 29.03.2019 (ANNEXURE-A) AND THE ORDER DATED 08.04.2019 (ANNEXURE-B) ALONG WITH ENTIRE PROCEEDINGS IN C.C.NO.130/2019 PENDING BEFORE THE SPECIAL COURT (ECONOMIC OFFENCES), BENGALURU.

THIS PETITION IS COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging complaint dated 29.03.2019 at Annexure-A, order dated 08.04.2019 at Annexure-B and entire proceedings in CC no.130/2019 on file of Special Court (Economic Offences) Bengaluru, this petition is filed.

2. Smt.Nalina Mayegowda, learned Senior Counsel appearing for Sri Manjunath H., learned counsel for petitioner submitted that petitioner was accused no.2 in private complaint filed by respondent-Income Tax Department at Annexure-A. Sum and substance of allegation in complaint was failure on part of M/s.SUCO Souharda Sahakari Bank Ltd.(Bank), its Chairman and CEO that Section 285BA of Income Tax Act, 1961 (Act) read with Rule 114E of Income Tax Rules, 1962 (Rules) mandated them to furnish a statement of financial transaction HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 or reportable account registered/recorded/maintained by them during each financial years from 2004-05 to 2015-16 to Income Tax Authority, which would be punishable offence under Section 277A of Act.

3. It was submitted that provision in Section 285A of Act was substituted by Finance Act, 2017 with effect from 01.04.2015 and including Co-operative Banks under such obligation for first time prospectively. It was submitted prospective application of obligation on Co-operative Banks was clarified by Income Tax Appellate Tribunal, Bengaluru (Tribunal) in ITA no.263 to 271/Bang/2023 in case of M/s.SUCO Souharda Sahakari Bank Ltd. v. The Joint Director of Income Tax [I and CI], Bengaluru, in its judgment dated 24.05.2023, which were in ancillary penalty proceedings against

very same Bank and would squarely cover issue in question.

4. Finding of Tribunal is as follows:

> "11. In the case of Shri Chatrapati Shivaji Maharaj Sahakari Bank Niyamitha v. DIT in ITA no.1332 to 1341/Bang/2019 of the Tribunal held as follows:
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> HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 "5. We heard the rival submissions and perused the material on record. The sole matrix of the disputed issue as envisaged by the learned Authorized Representative on the levy of penalty under Section 271FA of the Act on the co-operative bank for non-filing information of transactions in the Annual Information Return (AIR),under the provisions of Section 285BA(2) of the Act r.w Rule 114E of I T Rules 1962. We found as per Rule 114E of I T Rules 1962, the co-operative bank was not included prior to amendment effective from 1.4.2016. We found the amendment to Rule 114E of IT Rules 1962, is as under:
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> Sl.No. Nature and value of Class of transaction person (reporting person) (1) (2) (3)
>
> 1. A banking company or a co- Cash operative bank to which the deposits Banking Regulation Act, 1949 aggregating (10 of 1949) applies (including to ten lakh any bank or banking institution rupees or referred to in section 51 of more in a that Act). year in any savings account of a person maintained in that bank.

6. We, on perusal of the provisions found that the co-operative bank has been included in the amendment w.e.f 1.4.2016 and is not disputed. The learned Authorized Representative supported the claim relying on judicial decisions and provisions of Banking Regulation Act read as under :

> 'Section 5i in BANKING REGULATION ACT.
>
> HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 1[51. Application of certain provisions to the State Bank of India and other notified banks.--21"
>
> (1) Without prejudice to the provisions of the State Bank of India Act, 1955 (23 of 1955), or any other enactment, the provisions of section 10, 13 to 15, 17 253[19 to 21A, 23 to 28, 29 (excluding sub-section (3)] 265 [sub-sections (1B), (1C), and (2) of section 30], 31, 34,35,354, 36 [excluding clause (d) of sub-section (1)], 45Y to 45ZF, 46 to 48],50,52 and 53 shall also apply, so far as maybe, to and in relation to the State Bank of India 253/or any corresponding new bank or a Regional Rural Bank or any subsidiary bank) as they apply to and in relation to banking companies: PROVIDED that,-
>
> (a) nothing contained in clause (c) of sub-

section (1) of section 10 shall apply to the Chairman of the State Bank of India or to a 267(Managing Director) of any subsidiary bank in so far as the said clause precludes him from being a Director of, or holding an office in, any institution approved by the Reserve Bank:

> 253[(b) nothing contained in sub-clause
>
> (iii) of clause (b) of sub-section (1) of section 20 shall apply to any bank referred to in sub-section (1), insofar as the said sub-clause (iii) of clause (b) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a government company) in which not less than forty per cent of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and
>
> (c) nothing contained in section 46 or in section 47A shall apply to-
>
> (i) an officer of the Central Government or the Reserve Bank nominated or appointed as Director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019
>
> (ii) an officer of the State of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as Director of any of the said banks (not being the bank of which he is an officer) or of a banking company.] (2) References to a banking company in any rules or direction relating to any provisions of this Act referred to in sub-

section (1) shall, except where such rule or direction provides otherwise, be construed as referring also to the State Bank of India, a corresponding new bank, a Regional Rural Bank and a subsidiary bank.] Further on perusal of the Paper Book in respect of the financial statements filed for Asst. Years 2006-07 to 2015-16, the learned Authorized Representative submissions are that the assessee has only one Branch and small operational activities and filed list of staff in the bank at pages 45 to 55, where in the present financial year there are only 8 persons and was increased to 11 from F.Y. 2011-12. We found strength in the submission of learned Authorized Representative that the assessee bank was in Bona Fide belief that there is no requirement to file this statement as the law is application from 1.4.2016. We found under the provisions of Section 273B of the Act where penalty need not be imposed, if there exists a reasonable cause. We consider appropriate to the provisions of Section 2738 which is read as under:

> "273B. Notwithstanding anything contained in the provisions of clause (b) of sub-section (1) of section 271, section 271A, section 271AA. section 27113 section 271BA, section 27188, section 2710, section 271CA, section 271D, section 271E, section 271F, section 271M section 271FAB, section 271FB, section 271G, section 271GA, section 271GB. section 271H, section 2711, section 271J, clause (c) or clause

> (d) of sub-section (1) or sub-section (2) of section 272A sub-section (1) of section 272AA or section 2728 or sub-section (1) or sub-

section (1A) of section 272B8 or sub-section HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 (1) of section 2728138 or clause (b) of sub- section (1) or clause (b) or clause (c) of sub- section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure."

We, on perusal of the facts of the case and the explanations and the grounds of appeal duly supported by the Paper Book and judicial decisions are of the view that the amendment to Rule 114E of IT Rules has been effective from 1.4.2016 and, further the Assessing Officer has levied penalty for the F.Y. 2005-06 in the year 2017 and there was no provision under Rule 114E to include co-operative banks. We found the submissions of the learned Authorized Representative are realistic considering small activity of the Bank and limited staff which cannot be overlooked. Accordingly considering the principles of natural justice and the facts. we found there is a reasonable cause in not submitting the information as the assessee was under Bona Fide belief. Accordingly we set aside the order of C17 (Appeals) and direct the Assessing Officer to delete the penalty and allow the grounds of appeal of the assessee. In the result, the assessee appeal is allowed.

7. Similarly, for the Asst. Years 2007- 08 to 2015-16, the issues are similar and identical, the decision taken in ITA No.1332/Bang/2019 as discussed in the above paragraphs are equally applicable. Accordingly, for these appeals also, the order of CIT (Appeals) is set aside and direct the Assessing Officer to delete the penalty and allow the grounds of appeal of assessee.

12. Before concluding, it is to be mentioned that for imposing penalty under section 271FA of the Act, the AO and CIT(A) had strongly placed reliance on the judgment of Hon'ble Gujarat High Court in the case of Patan Nagrik Sahakari Bank Ltd. Vs. DIT (CIB) 338 ITR 167 (Gujarat). The HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 judgment of the Hon'ble Gujarat High Court is distinguishable on the facts due to the following reasons:

> i) The Hon'ble High Court has rendered the judgment on 4th March, 2011 and thus, there was no occasion for the Hon'ble High Court to consider the subsequent substitution of the Rule 114E of the I.T. Rules with effect from 01/04/2015 vide which co-operative banks have been specifically prescribed under Rule 114E of the I.T.Rules, for the purpose of furnishing a statement u/s. 285BA of the I.T.Act.
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> ii) Thus, there was no occasion for the Hon'ble Gujarat High court to consider the contention raised with regard to the ambiguity as to whether the co-operative banks are required to comply with the provisions of Rule 114E of the I.T.Rules prior to its substitution in as much as, the decisions of the Hon'ble Gujarat High Court was rendered prior to the substitution.

iii) In the aforesaid judgement, the Hon'ble Gujarat High Court has partly allowed the appeal of the assessee on the ground that the assessee was not aware of the statutory provisions in as much as the income of the assessee was exempt u/s.

80P[2][a][i] of the Act and the assessee became aware of the said provisions only upon the issuance of the notice u/s.285BA[5] of the Act and has therefore held that the same constitutes reasonable cause u/s.273B of the Act till the date of issuance of the notice and no penalty u/s.271FA of the Act was leviable till such date. Thus, the Hon'ble High Court has also considered the plea of reasonable cause as applicable in the said case.

13. In view of the above, the reliance placed by the learned AO and CIT(A) on the aforesaid HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 judgment of the Hon'ble Gujarat High Court is misplaced since the same is distinguishable from the facts of the present case.

14. As mentioned earlier, the Bangalore Bench of Tribunal in cases cited supra had considered that Rule 114E of the IT Rules was substituted to include co-operative banks w.e.f 01.04.2015 and has held that the ambiguity of the provisions constitutes reasonable cause under section 273B of the Act."

5. It was further submitted that finding of Tribunal had attained finality. Consequently, above proceedings against accused-petitioner would be illegal. On said ground, sought for allowing petition.

6. Sri YV Raviraj, learned counsel for respondent would not dispute fact that finding of Tribunal on question of law propounded as above having attained finality in favour of assessee-Bank.

7. Heard learned counsel for parties and perused material on record.

8. In view of finding of Tribunal covering only contention urged herein, it cannot be alleged that accused no.1-Bank being Sauharda Co-operative Bank had violated

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HC-KAR NC: 2026:KHC:40582 CNR: KAHC010277562019 Section 285BA of Act for period prior to 01.04.2015 as alleged in complaint.

9. Consequently, initiation of impugned proceedings against accused would be illegal. Hence, petition is allowed and complaint dated 29.03.2019 at Annexure-A, order dated 08.04.2019 at Annexure-B and entire proceedings in CC no.130/2019 on file of Special Court (Economic Offences) Bengaluru, stand quashed.

Sd/-

(RAVI V HOSMANI) JUDGE AV List No.: 1 Sl No.: 27