

<b>IN THE INCOME TAX APPELLATE TRIBUNAL</b>
<b>COCHIN BENCH, COCHIN</b>
<b>BEFORE S/SHRI CHANDRA POOJARI, AM &amp; GEORGE GEORGE K., JM</b>

ITA No.460/Coch/2019
Assessment Year: 2013-14

Shri A.V. Jayashankar, B-202, 2 <sup>nd</sup> Floor, 'B' Wing, C.V. Raman Nagar, Bangalore-93 [PAN: AFNPJ 2501D]	<b>Vs.</b>	The Income Tax Officer, Non Corporate, Ward-2(2), Kochi.
<b>(Assessee -Appellant)</b>		<b>(Revenue-Respondent)</b>

<b>Assessee by</b>	None
<b>Revenue by</b>	Smt. A.S. Bindhu, Sr. DR

<b>Date of hearing</b>	27/11/2019
<b>Date of pronouncement</b>	27/11/2019

### **ORDER**

Per CHANDRA POOJARI, AM:

This appeal filed by the assessee is directed against the order of the Pr. CIT passed u/s. 263 of the I.T. Act dated 01/02/2018 and pertains to assessment year 2013-14.

2. At the outset, none appeared on behalf of the assessee nor any adjournment application was filed before the Tribunal. We proceed to decide the appeal on merits after hearing the Ld. DR.

3. The assessee has raised the following grounds of appeal:

(1) The impugned order u/s 263 of the I.T. Act, 1961 of the Principal Commissioner of Income Tax, Kochi-2, dated 01.02.2018, is opposed to law and unsustainable in the facts and circumstances of the case and in law.

(2) The learned PCIT has grossly exceeded his jurisdiction in questioning the judgment of the AO in the given facts and circumstances of the case for holding the order of the AO as erroneous, in so far as it is prejudicial to the interest of the Revenue, in the facts and circumstances of the case and in law.

(3) The learned PCIT ought not to have held that the order of the AO was erroneous and prejudicial to the interest of the Revenue, having rejected explanation of the appellant regarding the source of deposit in the bank account, in assessing the income by estimation, in the absence of books of account, as it was a plausible view, in the facts and circumstances of the case and in law.

(4) The learned PCIT has failed to appreciate that in the facts and circumstances of the case the view of the AO was a plausible view and therefore, he is wrong in stating that the view taken by the AO was erroneous, in so far as it is prejudicial to the interest of the Revenue, in the facts and circumstances of the case and in law.

(5) The learned PCIT, is wrong in directing the AO to examine the issue afresh and pass an order in accordance with the law, as it was in excess of jurisdiction u/s 263 of the I.T. Act, 1961.

(6) For these and other additional grounds of appeal adduced at the time of hearing, the order of the Principal Commissioner of Income Tax, Kochi-2, is opposed to law and unsustainable in the facts and the circumstances of the case.

4. There was a delay of 465 days in filing the appeal before the Tribunal. However, we find that the assessee has not filed any condonation petition for condoning the delay. Since there was inordinate delay of 465 days in filing the appeal before the Tribunal and no condonation petition was filed by the assessee,

we dismiss the appeal of the assessee in limine. Since the appeal itself is dismissed, we refrain from adjudicating the grounds of appeal of the assessee.

5. In the result, appeal of the assessee is dismissed in limine.

Order pronounced in the open court on 27<sup>th</sup> November, 2019.

sd/-  
(GEORGE GEORGE K.)  
JUDICIAL MEMBER

sd/-  
(CHANDRA POOJARI)  
ACCOUNTANT MEMBER

Place: Kochi

Dated: 27<sup>th</sup> November, 2019

GJ

Copy to:

1. Shri A.V. Jayashankar, B-202, 2<sup>nd</sup> Floor, 'B' Wing, C.V. Raman Nagar, Bangalore-93.

The Income Tax Officer, Ward-2(2), Non Corporate, Kochi.

3. The Pr. Commissioner of Income-tax, Kochi.

4. Guard File.

By Order

(ASSISTANT REGISTRAR)  
I.T.A.T., Cochin