

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH : COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA.No.592/COCH./2023  
ALONG WITH  
S.A.No.124/COCH./2023 - Assessment Year 2008-2009

Shaiju Thomas Kallekkulam, aged 45 years, s/o. Thomas Kallekkulam, Madakathanam, THODUPUZHA – 686 670. Kerala. PAN ANGPK0232P (Appellant)	vs.	The Joint Commissioner of Income Tax, Aluva Range, ALUVA. (Respondent)
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For Assessee :	Sri Leejoy Mathew V. Advocate
For Revenue :	Smt. V. Swarnalatha, Sr. DR

Date of Hearing :	20.08.2024
Date of Pronouncement :	22.08.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal, for the assessment year 2017-2018, arise against the CIT(A)-National Faceless Appeal Centre [in short the "NFAC"], Delhi, Delhi's DIN & Order no.ITBA/NFAC/S/250/2023-24/1053293956(1), dated 29.05.2023, in proceedings u/sec.271D of the Income Tax Act, 1971 (in short the "Act").

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the learned CIT(A)-NFAC has noted the assessee's continuous non-appearance in the lower appellate proceedings before rejecting the assessee's contentions vide ex-parte order under challenge. Smt. Swarnalatha, Sr. DR could hardly dispute the clinching fact that the NFAC's order has nowhere decided the assessee's substantive grounds on merits as contemplated u/sec. 250(6) of the Act requiring it to give points for determination followed by a detailed adjudication thereof. Faced with this situation, we deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the NFAC for its afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to plead and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. Delay of 18 days is condoned by considering the assessee's condonation petitions explaining the delay(s) as well as going by the decision in the case of Collector Land Acquisition vs. Mst. Katiji & Ors(1987) 167 ITR 471 (SC) settling the issue long back that that all such technical aspects must make way for the cause of substantial justice the delay is condoned and the appeals are admitted for adjudication.

4. This assessee's appeal ITA.No.592/Coch./2023 is allowed for statistical purposes in above terms and consequently, the stay application SA.No.124/Coch./2023 of the assessee has become infructuous. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 22.08.2024.

Sd/-  
[AMARJIT SINGH]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Cochin, Dated 22<sup>nd</sup> August, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Cochin concerned
4.	The D.R. ITAT, Cochin Bench, Cochin.
5.	Guard File.

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,  
Cochin