

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN

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

ITA.No.49/COCH./2023
Assessment Year 2017-2018

Mohamed Jazeel Parambath Ashraf, H.No.16/816-B, Indira Jn. Thoppumpady, COCHIN. Ernakulam District. PAN BIAPM7888R	vs.	The Income Tax Officer, Non Corporation Ward-2(4) * TPS, KOCHI.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Sri Dr. S. Pandian, CIT

Date of Hearing :	21.08.2024
Date of Pronouncement :	12.09.2024

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/250/2022-23/1047289250(1), dated 15.11.2022, in proceedings u/sec.143(3) of the Income Tax Act, 1971 (in short the "Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. Delay of 02 days in filing the appeal before the tribunal in light of Hon'ble apex court's landmark decision *Collector, Land Acquisition vs., MST Katiji* [1987] 167 ITR 471 (SC) has settled the law long back that all such technical aspects must make way for the cause of substantial justice.

3. It emerges during the course of hearing that the learned CIT(A)-NFAC has dismissed the appeal of the assessee on the ground of more than 170 days delay. The Revenue 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.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 12.09.2024.

Sd/-

[AMARJIT SINGH]
ACCOUNTANT MEMBER

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Cochin, Dated 12th September, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The 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