

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

S.A. No. 157/Coch/2023 (in ITA No. 699/Coch/2023) & ITA No. 699/Coch/2023 Assessment Year : 2017-18
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Shri Jomy Jacob, Vettikkatt Machingal Building, A.R. Nagar, Gramapanchayath, Kolappuram, Malappuram, Kerala – 676 306. PAN: AHSPJ6013F	Vs.	The Income Tax Officer, Ward – 3, Tirur, Malappuram.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Krishna K, Advocate
Revenue by	:	Smt. Girly Albert, Snr.DR

Date of Hearing	:	26-09-2024
Date of Pronouncement	:	28-10-2024

ORDER

PER BENCH

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 29/08/2023 in respect of the A.Y. 2017-18.

2. The brief facts of the case are that the assessee is an agriculturist and also doing wholesale business of glass. The AO treated the cash deposits

made during the demonetisation period as unexplained money u/s. 69 of the act and also disallowed the agricultural income. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and raised various grounds on merits. The Ld.CIT(A) had issued notices on 3 occasions through online but the assessee had not responded and therefore the Ld.CIT(A) had dismissed the appeal for non-prosecuting the same. As against the said order, the assessee is in appeal before this Tribunal.

3. At the time of hearing, the Ld.AR submitted that the assessee had not logged into his email account and he has also not received any real time alert by way of SMS and therefore the assessee was not able to appear before the Ld.CIT(A) and prayed for one opportunity to appear before the Ld.CIT(A).

The Ld.DR relied on the orders of the lower authorities.

4. We have heard the arguments of both sides and perused the materials available on record.

5. Even though, the assessee had raised various grounds in support of their case, we are not inclined to adjudicate the same for the simple reason that the Ld.CIT(A) had no occasion to consider the issue on merits. We have considered the reasons for the non appearance and accepted the same. In view of that, we are inclined to set aside the order of the Ld.CIT(A) and remit the issue to the file of Ld.CIT(A) to decide the same on merits in accordance with law.

In view of the disposal of the main appeal, the stay petition becomes infructuous and dismissed as such.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay petition is dismissed as infructuous.

Order pronounced in the open court on 28th October, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 28th October, 2024.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin