

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

Before Shri Inturi Rama Rao, Accountant Member

ITA No. 220/Coch/2024
(Assessment Year: 2017-18)

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| Karukutty Merchants Association Chakiath Building Karukutty P.O., Angalamly 683576 [PAN: AABTK8438K] | vs. | The Income Tax Officer KAP Complex Rly. Station Road Aluva 683101 |
| (Appellant) | | (Respondent) |

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| Appellant by: | Shri Anil Kumar P.J., Advocate |
| Respondent by: | Smt. Leena Lal, Sr. D.R. |

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|------------------------|------------|
| Date of Hearing: | 21.10.2024 |
| Date of Pronouncement: | 30.10.2024 |

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre [CIT(A)] dated 08.02.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the assessee is a nonprofit organization formed with the object of developing unity and harmony among the members of the association. The assessee had not filed the regular return of income for AY 2017-18. On receipt of information that the assessee made cash deposit, aggregating to a sum of Rs. 17,46,650/- with two bank accounts maintained with South Indian Bank, Karukutty branch during the demonetisation period. The Assessing Officer (AO) issued notice u/s. 142(1) of the Income Tax Act, 1961 (the Act) calling upon the assessee to file the return of income for AY 2017-18, but the assessee neither complied notice u/s. 142(1) of the Act nor filed the details as called for by the AO. Under these

circumstances the AO was constrained to complete the bust judgement assessment u/s. 144 of the Act by treating the 8% of the total cash deposits made in the bank accounts as income of the assessee and assessed the same u/s. 115BBE of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide the impugned order dismissed the appeal *in limini* for non-prosecution placing reliance on the judgement of the Hon'ble Supreme Court in the case of BN Bhattacharya [1997] 118 ITR 461 (SC).

4. Being aggrieved the assessee is in appeal before the Tribunal. I have heard the rival contentions of both the parties and perused the material available on record. I find that the CIT(A) has dismissed the appeal *in limini* for non-prosecution without entering into the merits of the issue involved in the appeal. It is settled position of law that an is appeal the CIT(A) is bound to dispose off the issue in appeal on merits by advertng to the facts of the facts of the case and discussing the legal position governing the issue in appeal. However, in the present case the CIT(A) merely dismissed the appeal *in limini* which is contrary to the settled position of law. Therefore, I remand the matter back to the file of CIT(A) with a direction to dispose off the appeal on merits in accordance with law after providing opportunity of hearing to the assessee.

5. This assessee's appeal is partly allowed for statistical purposes.

Order pronounced in the open court on 30th October, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 30th October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin