

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

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.492/Coch/2023 : Asst. Year 2008-2009

Vellikulangara Service Co-operative Bank Limited No.425 Vellikulangara PO Thrissur – 680 693. PAN : AAAAP3974B.	v.	The Income Tax Officer Ward 2(3) Thrissur.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 14.08.2024	Date of Pronouncement : 23.10.2024
------------------------------	---------------------------------------

ORDER

Per Bench :

This assessee's appeal in ITA No.492/Coch/2023 for assessment year 2008-2009 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2022-23/1051242194(1) dated 24.03.2023, in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

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

2. It emerges during the course of hearing that the NFAC has noted the assessee's continuous non-appearance in the lower appellate proceedings before rejecting it's grounds vide

ex-parte order under challenge. Learned 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 the situation, we deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the NFAC for it's afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's risk and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. Delay of 45 days in filing the instant appeal is condoned as per assessee's condonation averments and in light of Collector, Land Acquisition vs. MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

4. This assessee's appeal ITA No. 492/Coch/2023 is allowed for statistical purposes in very terms.

Order pronounced in the open court on this 23rd day of October, 2024.

Sd/-

(Amarjit Singh)

ACCOUNTANT MEMBER

Cochin ; Dated : 23rd October, 2023.

Devadas G*

Sd/-

(Satbeer Singh Godara)

JUDICIAL MEMBER

Copy to :

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

Asst. Registrar/ITAT, Cochin