

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

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

ITA No.91/Coch/2024 : Asst.Year 2016-2017
(SA No.147/Coch/2024)

Sri.Johny Joseph Manjali House, Vattathara Chengal, Kaladi PO Ernakulam – 683 574. PAN : AJWPJ0426G.	v.	The Income Tax Officer Ward Aluva.
(Appellant)		(Respondent)

Appellant by : Sri.K.P.Paulson, CA
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 23.08.2024	Date of Pronouncement : 07.11.2024
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ORDER

Per Bench :

This assessee's appeal ITA No.91/Coch/2024 (along with stay application therein) for assessment year 2016-2017 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1055984489(1) dated 12.09.2023 in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

Heard both the parties. Case file perused.

2. Delay of 88 days is condoned by considering the assessee's condonation petitions, supported by an affidavit of the assessee, explaining the delay(s) as well as going by the

decision in the case of Collector Land Acquisition v. Mst.Katiji & Ors. (1987) 167 ITR 471 (SC) settling the issue long back that all such technical aspects must make way for the cause of substantial justice the delay is condoned and the appeal is admitted for adjudication.

3. 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 the assessee's contentions 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 onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Thus, assessee's appeal ITA No. 91/Coch/2024 is allowed for statistical purposes and the SA No.147/Coch/2024 is dismissed as rendered infructuous. Ordered accordingly.

Order pronounced in the open court on this 07th day of November, 2024.

**Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER**

**Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER**

Cochin ; Dated : 07th November, 2024.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin