

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

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

ITA No.439/Coch/2023 : Asst.Year 2017-2018
(SA No.82/Coch/2023)

Sri.Abdul Jabbar Vakkulathil Vakkulathil House, Uppungal Punnayoorkulam PO Thrissur – 679 561. PAN : AHAPV0730H.	v.	The Income Tax Officer Ward Thrissur.
(Appellant)		(Respondent)

Appellant by : --- None ---
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.439/Coch/2023 (along with stay application therein) for assessment year 2017-2018 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1051907429(1) dated 06.04.2023 in proceedings u/s.147 r.w.s. 144 of the Income-tax Act, 1961; in short "the Act" hereinafter.

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

2. Delay of 1 day 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 learned CIT(A)-NFAC has simply discussed the assessment order while partly allowing the appeal of the assessee, before rejecting the assessee's contentions vide order under challenge. Learned Sr.DR could hardly dispute the clinching fact that the CIT(A)-NFAC's has not issued any statutory notice(s) to the assessee while confirming the addition(s) made by the Assessing Officer and thereby not 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 CIT(A)-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. Ordered accordingly.

4. This, assessee's appeal ITA.No.439/Coch/2023 is allowed for statistical purposes and the stay application SA No.82/Coch/2023 is dismissed as rendered infructuous. Ordered accordingly.

Order pronounced in the open court on this 7th 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