

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV, JM**

**(Through Vertual Court)**

**ITA No. 266/Coch/2024  
Assessment Year: 2018-19**

Kunjumol 717 81/138, Puthuval Puthan Veedu, Pound Kadavu Trivandrum 695583 [PAN: GHDPK0336M]	vs.	The Income Tax Officer Thriuvananthapuram
(Appellant)		(Respondent)

Appellant by:	----- None -----
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	18.11.2024
Date of Pronouncement:	29.11.2024

**ORDER**

**Per: Inturi Rama Rao, AM**

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 31.01.2024 for Assessment Year (AY) 2018-19.

2. Brief facts of the case are that the assessee, an individual, had not filed return of income under the provisions of section 139 of the Income Tax Act, 1961 (the Act). The Income Tax Officer, Trivandrum (hereinafter "the AO"), on receipt of information that the assessee made following transactions, issued a notice u/s. 148B of the Act on 24.03.2022: -

- 1 Time deposits (other than a time deposit made through renewal of another time deposit Rs. 10,00,000/-)
- 2 Sales consideration on sale of immovable property (Section 194IA Rs.63,15,000/-)

The assessee had not responded to the notice u/s. 148B of the Act, therefore, based on the information available on record, the AO completed the assessment u/s. 144B of the Act at a total income of Rs. 73,15,000/- While doing so the AO made addition on account of time deposit of Rs. 10,00,000/- as unexplained investment and also made an addition of Rs. 63,15,000/- on account of undisclosed capital gains on sale of immovable property.

3. Being aggrieved, an appeal was file before the CIT(A) with a delay of 122 days. The CIT(A) dismissed the appeal *in limine* without condoning the delay.

4. Being aggrieved, the assessee is in appeal before this Tribunal in the present appeal.

5. At the outset, we carefully perused the order passed by the CIT(A) and find that the CIT(A) had refused to condone the delay of 122 days by referring to various judicial precedents wherein it was held that in the absence of sufficient and reasonable cause for the delay, delay need not be condoned. We are of the considered opinion that there is absolutely no quarrel as to the proposition that in the absence of sufficient and reasonable cause, the delay in filing the

appeal need not be condoned. But in the present case, we find that before the CIT(A) the assessee prayed for condonation of delay on account of the fact that the assessee was not aware of the assessment order passed on 17.03.2023, as the order was not served physically. The CIT(A), without adverting to the explanation offered, explaining the delay in filing the appeal before the CIT(A), he merely dismissed the appeal without condoning the delay. The CIT(A) had not rendered any finding as to how the explanation tendered by the assessee does not constitute reasonable and sufficient case for the delay in filing the appeal by the assessee. The approach adopted by the CIT(A) is arbitrary and unreasonable and, therefore, we set aside the order of the CIT(A) with a direction to dispose of the appeal by passing a reasoned order adverting to the explanation of the assessee after affording reasonable opportunity of hearing to the assessee.

6. In the result, the appeal the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29<sup>th</sup> November, 2024

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 29<sup>th</sup> November, 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