

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

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

**ITA No. 57/Coch/2024
Assessment Year: 2017-18**

Syedali Ebrahim
328, 329, Saad Manzil
Pathamkally, Neyyattinkara
Thiruvananthapuram 695009
[PAN: AAJPE7592E]

..... Appellant

Vs.

ACIT, Circle - 1(2)
Aayakar Bahvan
Kowdiar
Thiruvananthapuram 695003

..... Respondent

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

Date of Hearing: 20.11.2024
Date of Pronouncement: 09.12.2024

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 29.11.2023 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the assessee, an individual, filed the return of income for AY 2017-18 on 31.10.2017 declaring total income of Rs. 22,69,140/-. Against the said return of income assessment was completed by ACIT, Circle – 1(2), Thiruvananthapuram (hereinafter “the AO”) vide order dated 21.11.2019 u/s. 143(3) of the Income Tax Act, 1961 (the Act) at total income of Rs.1,76,19,140/-. While doing so the AO made addition of Rs.1,53,50,000/-.

3. Being aggrieved, an appeal was filed before the CIT(A), contending that part of the addition represents the loan proceeds from Axis Bank introduced as capital in the business and also contending that the addition of Rs. 1,25,000/- represents the amount received from one M/s. United Steels during the earlier assessment year classified under “sundry creditors”. However, the same was re-classified as addition to capital account during the year under consideration. However, the CIT(A) dismissed the appeal for non prosecution placing reliance on various judicial precedents.

4. At the outset we find that the CIT(A) has dismissed the appeal *in limine* for non prosecution without dealing with the issues in the appeal on merits. It is the settled position of law that the CIT(A), even while disposing of the appeal *exparte*, is duty bound to dispose of the appeal on merit even in the absence of the appellant. Reliance in this regard can be placed on the decision of the Hon'ble Bombay High Court in the case of PCIT vs. Premkumar Arjundas Luthra 279 CTR 614. Therefore, in the light of the above legal position we are of the considered view that the matter is required to be remanded to the file

of the CIT(A) with a direction to dispose of the appeal de novo on merits after affording reasonable opportunity of hearing to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 9th December, 2024

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 9th December, 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