

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

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

**ITA No. 425/Coch/2023
Assessment Year: 2007-08**

Aneak Koya Valappil
Baputty Mandiram
Hospital Road
Calicut 673001
[PAN: ALGPK8935M]

..... Appellant

Vs.

The Income Tax Officer
Ward - 1(1), Kozhikode

..... Respondent

Appellant by: Smt. Parvathi Ammal, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 21.11.2024
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 30.03.2023 for Assessment Year (AY) 2007-08.

2. Brief facts of the case are that the assessee, an individual, had not filed return of income for AY 2007-08 under the provisions of section 134 of the

Income Tax Act, 1961 (the Act). The Income Tax Officer, Ward - 1(1), Kozhikode (hereinafter "the AO") had received an information that Shri K.V. Aneak, Baputty Mandiram along with this brother K.V. Arun had executed a sale agreement dated 22.09.2006 with Shri K.P. Madhukrishnan for sale of property owned by them at Kalathikunnu Desom of Kozhikode Corporation for total consideration of Rs. 1,59,87,000/-. Thus, he formed an opinion that income escaped to tax. A notice u/s. 148 was issued on 18.03.2014. In response to the said notice, assessee filed return of income showing a total income of Rs. 2,04,2909/-. Against the said return of income, the AO completed assessment u/s. 143(3) r.w.s. 147 of the Act at a total income of Rs. 62,41,747/- making an addition of Rs. 58,27,029/- towards long term capital gain on sale of property.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

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

5. We have heard the rival contentions of both the parties and perused the material available on record. Form the perusal of the impugned order it is found that the CIT(A), had merely dismissed the appeal for non prosecution without going into the merits of the case. 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 merits. 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 required to be remanded to the file of the CIT(A) with the direction to dispose of the appeal de novo on merits after affording reasonable opportunity of hearing to the assessee.

6. In the result, the appeal filed by 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