

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.414/Coch/2024 : Asst.Year 2017-2017
&
SA No.67/Coch/2024

Puthenvelikkara Service Co-operative Bank Limited No.3445 Puthenvelikkara P.O. North Parur Ernakulam – 683 594. PAN : AAAAP7149Q.	v.	The Income Tax Officer Ward 3 Aluva.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 18.11.2024	Date of Pronouncement : 09.12.2024
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee along with stay application are arising from the order of the learned Commissioner of Income-tax (Appeals) dated 14.03.2024 and relates to assessment year 2017-2018.

2. The assessee has raised 9 grounds of appeal. However, the first appellate authority as the first appellate authority has dismissed the appeal *in limine* without condoning the delay.

3. The learned Departmental Representative could not seriously objected vis-à-vis restoration of the matter to the file

of CIT(A) for granting an opportunity of being heard on merits of the case.

4. After considering the rival submissions, we observe that the learned CIT(A) has dismissed the appeal of the assessee without condoning the delay of 240 days before him. While dismissing the appeal, the learned CIT(A) could not appreciate that it is the Counsel of the assessee who was responsible for delay. It is settled position of law that an assessee would not suffer on account of mistake by his Counsel. A reference can be made to the judgment of Hon'ble Madhya Pradesh High Court in the case of N.P.Jain v. CIT reported in 172 ITR 331 (MP). Therefore, we set aside the order of the CIT(A) and restore the matter back to his file with a direction that he will decide the appeal on merits. Needless to say that the CIT(A) would grant sufficient opportunities to the assessee before taking any view.

5. Since we have already decided the appeal, the stay application of the assessee becomes infructuous and the same is dismissed.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay application is dismissed. Order pronounced on this 09th day of December, 2024.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 09th December, 2024.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin