

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

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

ITA No.612/Coch/2023 : Asst.Year 2016-2017

Sri.Sunilkumar Jayabhavan Divakaran, Proprietor, M/s.Krishna Granites Chiriya Velinaloor, Akkal PO Kollam – 691 516. <b>PAN : AIUPD2141H.</b>	v.	The Assistant Commissioner of Income-tax Circle 1(3) Trivandrum.
(Appellant)		(Respondent)

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

<b>Date of Hearing : 21.11.2024</b>	<b>Date of Pronouncement :10.12.2024</b>
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**ORDER**

**Per Prakash Chand Yadav, JM :**

The present appeal of the assessee is arising from the order of the learned Commissioner of Income-tax (Appeals) dated 28<sup>th</sup> June, 2023 having DIN& Order No.ITBA/NFAC/S/250/2023-24/1054020271(1) dated and relates to the assessment year 2016-2017.

2. The assessee has raised six grounds of appeal, however, the solitary issue which is to be decided is whether the CIT(A) is justified in dismissing the appeal *ex parte* without dealing with the merits of the case.

3. When the matter was called for hearing no one appeared from the side of assessee, despite proper service of the notice

from the registry. Therefore we are deciding the appeal in absence of any presentation from the side of assessee.

4. The learned Departmental Representative relied upon the orders of the authorities below.

5. After perusing the material on record, we observe that the learned CIT(A) has issued notices to the assessee, fixing the case of hearing. Out of this, five notices, three notices were issued during Covid-19 pandemic period. Therefore, effectively, tow notices have been issued by the office of the learned CIT(A). Further, on perusal of the order of the Id.CIT(A), it is not clear as to whether any notice of hearing was actually served upon the assessee or not. Further, the Id.CIT(A) has just affirmed the order of the AO without independently examining the issue. Therefore, in the interest of justice, we remit the matter to the file of the CIT(A) with a direction to decide the matter afresh in accordance with law. Needless to say, the Id.CIT(A) shall afford proper opportunity of hearing to the assessee.

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

Order pronounced on this 10<sup>th</sup> day of December, 2024.

**Sd/-**  
**(Inturi Rama Rao)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Prakash Chand Yadav)**  
**JUDICIAL MEMBER**

Cochin; Dated : 10<sup>th</sup> 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