

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 353/Coch/2024
Assessment Year: 2017-18**

Kalathindavida Muhammad Riyas
K.V. House, Pattayam
Kolanchery, Kannur 670601
[PAN: AWLPM4967F]

..... Appellant

Vs.

The Income Tax Officer
Ward - 4, Kannur

..... Respondent

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

Date of Hearing: 10.12.2024
Date of Pronouncement: 10.12.2024

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 28.02.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the assessee is an agent of Janatha Charitable Society and is engaged in the business of distribution of milk and milk products. The assessee filed his return of income for AY 2017-18 on 31.03.2018 disclosing a total income of Rs. 2,97,120/-. The case was selected for scrutiny u/s. 143(3) of the Income Tax Act, 1961 (the Act) to verify the source of cash deposits

made during the demonetisation period amounting to Rs. 7,90,500/-. Notice u/s. 142(1) of the Act was issued to the assessee asking to submit the documentary evidences in support of the source of cash deposits in his bank account. The assessee failed to file any reply to the notice. Hence the Income Tax Officer, Ward -4, Kannur (hereinafter "the AO") completed the assessment assessing the total income of the assessee at Rs. 10,987,620/- by making an addition of Rs. 7,90,500/- as unexplained cash deposits.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal *ex parte* for non prosecution placing reliance on the judgement of the Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattachargee & Another 118 ITR 461.

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

5. When the appeal was called none appeared on behalf of the assessee nor is there any application for adjournment. Therefore, I proceed to dispose the appeal after hearing the learned Sr. DR.

6. I find that the learned CIT(A), without averting to the statement of facts and the grounds of appeal raised before him, merely dismissed the appeal *in limine* for non prosecution. This would only demonstrate that the CIT(A) has dismissed the appeal without any application of mind which is contrary to 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 I am of the considered view that the matter requires 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.

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

Order pronounced in the open court on 10th December, 2024

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 10th 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