

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

**BEFORE SHRI INTURI RAMA RAO, AM**

**ITA No. 302/Coch/2024  
Assessment Year: 2011-12**

Attu Puratt Ismail  
Attu Purat House, Kadavathur  
Thalassery, Kannur 670676  
[PAN: ABFPI7474M]

..... Appellant

Vs.

The Income Tax Officer  
Ward - 2, Kannur

..... Respondent

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

Date of Hearing: 09.12.2024  
Date of Pronouncement: 09.12.2024

**ORDER**

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 06.02.2024 for Assessment Year (AY) 2011-12.

2. Brief facts of the case are that the assessee is a partner of M/s. Swarnanjali Gold, Kalpatta. The assessee did not file the return of income for AY 2011-12. The Income Tax Officer, Ward -2, Kannur (hereinafter "the AO") issued notices u/s. 142(1) of the Income Tax Act, 1961 (the Act) to the assessee, to which the assessee did not respond. Therefore a show cause notice was issued to the assessee on

22.10.2018 and completed the assessment u/s. 144 of the Act by making an addition of Rs. 37,50,000/- as unexplained investment.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal exparte for non prosecution placing on the decision of the Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee & Others [1979] 118 ITR 461 and few other judgements.

4. Being aggrieved, the assessee is in appeal before the Tribunal in the present appeal. The learned A.R. has filed a letter seeking adjournment on the ground the senior partner of the CA firm is out of country. The request for adjournment is declined, as the matter can be disposed of without entering into the merits, as the CIT(A) has disposed of the appeal without entering into the merits of the case.

5. I find that the learned CIT(A) dismissed the appeal *in limine* for non prosecution. 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 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.

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

Order pronounced in the open court on 9<sup>th</sup> December, 2024

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 9<sup>th</sup> 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

Assistant Registrar  
ITAT, Cochin