

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI KESHAV DUBEY, JM**

**ITA No. 659/Coch/2023
Assessment Year: 2016-17**

Cheeran Jose Shunson Appellant
Cheeran House, Kottapadi
Thrissur 680505
[PAN: DPAPS4426C]

vs.

The Income Tax Officer Respondent
Ward 1 & TPS, Guruvayoor, Thrissur

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

Date of Hearing: 06.01.2025
Date of Pronouncement: 28.01.2025

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 31.07.2023 for Assessment Year (AY) 2016-17.

2. The appellant is an individual engaged in the business of dealing in oil. The return of income for AY 2016-17 was filed on 29.12.2016 declaring a total income of Rs. 7,92,920/-. Against the said return of income, the assessment was completed by the Income

Tax Officer, Ward -1, Guruvayur (hereinafter called "the AO") vide order dated 24.12.2018 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 77,90,320/-. While doing so, the AO made addition of Rs. 69,97,400/- being the differential amount between the apparent consideration and the value adopted for the purpose of stamp duty purposes, supposedly u/s. 50C of the Act.

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

4. When the appeal was called nobody appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceeded to dispose of the appeal after hearing the learned Sr. DR.

5. On a mere reading of the assessment order it is not clear whether the appellant was given an opportunity to explain the reasons for lower apparent consideration. Furthermore, before the learned CIT(A) the appellant had explained the reasons for the lower fair market value. The CIT(A) neither dealt with the explanation offered during the course of proceedings before the CIT(A) nor passed the order on merits in terms of provisions of section 250(6) of the Act. The CIT(A) is expected to state the points for determination and the reasons for the decision. In the present case the CIT(A) has not stated the points for determination. He simply

confirmed the action of the AO without giving any reasons for the decision.

6. We 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 we are 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 28th January, 2025.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 28th January, 2025

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