

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 863/Coch/2024
Assessment Year: 2020-21**

Baneesh Appellant
Kolagarayil, Ayilakkad
Polpakara, Malappuram 679576
[PAN: AASPE8854C]

Vs.

The Income Tax Officer Respondent
Ward - 2, Tirur

Appellant by: Shri Shivadas Chettoor, CA
Respondent by: Shri Sanjit Kumar Das, CIT-DR

Date of Hearing: 19.12.2024
Date of Pronouncement: 29.01.2025

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 03.08.2024 for Assessment Year (AY) 2020-21.

2. Brief facts of the case are that the assessee, an individual, filed his return of income for AY 2020-21 on 16.03.2021 declaring total income of Rs. 11,00,030/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward – 2,

Tirur (hereafter “the AO”) vide order dated 05.09.2022 passed u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 (the Act) at a total income of Rs. 9,30,94,861/- by making an addition of Rs. 9,19,94,831/- on account of differences in respect creditors and liabilities.

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 judgments of the Hon'ble Bombay High Court in the case of M/s. Chemipol vs. Union of India in Excise Appeal No. 62 of 2009 and a few other orders and the Hon'ble Supreme Court in the case of B.N. Bhattacharji and Anr 118 ITR 461 (SC).

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

5. We have heard the rival contentions of both the parties and perused the material available on record. 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 *ex parte*, 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.

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

Order pronounced in the open court on 29th January, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 29th 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