

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

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

**ITA No. 126/Coch/2024
& SA No. 14/Coch/2024
Assessment Year: 2016-17**

Sudha Narayanankutty Appellant
VI/827E, Hari Smrithy
Vallathol Jn., Thrikkakkara 682021
[PAN: ABIPN5683P]

Vs.

The Income Tax Officer Respondent
Non-corporate Ward 1(4)
C.R. Building, I.S. Press Road
Kochi 682018

Appellant by: Shri Radesh Bhat, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 13.12.2024
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 20.12.2023 for Assessment Year (AY) 2016-17.

2. Brief facts of the case are that the assessee, an individual, filed her return of income for AY 2016-17 on 01.08.2016 declaring total

income of Rs.42,10,800/-. Against the said return of income, the assessment was completed by the AO vide order dated 29.12.2018 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 1,20,71,671/- by making an addition of Rs. 78,60,871/- under the head income from “Long Term Capital Gain”.

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 B.B. Bhattachargee 118 ITR 4611 (SC) and others.

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 *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.

6. Since the quantum appeal of the assessee is disposed of, the stay application becomes infructuous.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay application is dismissed as infructuous.

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