

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

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

**ITA No. 347/Coch/2024
Assessment Year: 2011-12**

The Pazhambalacode Service Appellant
Co-op. Bank Ltd.
Pazhambalacode P.O.
Alathur Taluk, Palakkad 678544
[PAN: AAAAP4158K]

Vs.

The Income Tax Officer - 5 Respondent
Aayakar Bhavan, English Church Road
Palakkad 670014

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

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 26.02.2024 for Assessment Year (AY) 2011-12.

2. Brief facts of the case are that the assessee, the assessee is a co-operative bank registered under the Kerala Co-Operative

Societies Act, 1969. The assessee has not filed the return of income u/s. 139(1) of the Income Tax Act, 1961 (the Act) for AY 2011-12. Therefore the Income Tax Officer, Ward 5, Palakkad (hereafter “the AO”) issued a notice u/s. 148 of the Act on 11.11.2014. The assessee neither complied with the notice u/s. 148 of the Act nor produced any details called for vide the notices u/s. 142(1) of the Act dated 16.08.2016. Therefore, the AO completed the assessment vide order dated 19.12.2016 passed u/s. 144 r.w.s 147 of the act at a total income of Rs. 63,24,230/- by disallowing the claim for deduction u/s. 80P of the Act by holding that the appellant society is a co-operative bank.

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 judgement of the Hon'ble Supreme Court in the case of B.N. Bhattacharji and Anr 118 ITR 461 (SC) and few other judgements.

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

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

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER
Cochin, Dated: 29th January, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

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