

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

**BEFORE SHRI INTURI RAMA RAO, AM**

**ITA No. 108/Coch/2025  
Assessment Year: 2017-18**

Identity Infrastructures Twin Towers ..... Appellant  
XI/612 Adjacent To Crowne Plaza  
Kundannoor, Maradu, Kochi 682304  
[PAN: AAFFI7257N]

vs.

Dy. Commissioner of Income Tax ..... Respondent  
Corporate Circle - 1(1), Kochi

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

Date of Hearing: 11.02.2025  
Date of Pronouncement: 24.02.2025

**ORDER**

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 13.11.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that appellant is a partnership firm engaged in the business of infrastructural development related to residential and commercial construction. The return of income for AY 2017-18 was filed on 05.08.2017 declaring loss of Rs. 7,96,631/- under the head "profit and gains from business or profession". Against the said return of income, the assessment was completed by the DCIT, Corporate

Circle 1(1), Kochi (hereinafter called "the AO") vide order dated 04.12.2019 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 1,09,335/-. While doing so the AO made addition of Rs. 8,95,965/- under sections 40A(3) and 40(a)(ia) of the Act.

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 on the decision of the Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee [1977] 118 ITR 461 (SC).

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

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

6. I find that the learned CIT(A) dismissed the appeal *in limine* for non prosecution. As contemplated u/s. 250(6) of the Act the CIT(A) is required to frame points of determination followed by a detailed discussion thereupon before passing the order. 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 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.

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

8. In the result, the appeal filed by the assessee is dismissed.

9. Order pronounced in the open court on 24<sup>th</sup> February, 2025.

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

Cochin, Dated: 24<sup>th</sup> February, 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