

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.179/Coch/2023 : Asst.Year 2009-2010
ITA No.180/Coch/2023 : Asst.Year 2010-2011

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| Sri.Vaniya Kandiyil Kunhabdulla C/o.Avinash, Kannothumbal Road, P.O.Chovva Kannur – 670 692. PAN : DHFPK8879E. | v. | The Income Tax Officer Ward-2 Kannur. |
| (Appellant) | | (Respondent) |

Appellant by: Sri.R.Krishnan, CA
Respondent by: Smt.Leena Lal, Sr.AR

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| Date of Hearing : 20.01.2025. | Date of Pronouncement : 19.02.2025 |
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ORDER

Per Prakash Chand Yadav, JM :

Both these appeals filed by the assessee are arising from the order of the Commissioner of Income-tax (Appeals) dated 6th January, 2023 and it relates to assessment years 2009-2010 and 2010-2011, having DIN & Order No.ITBA/NFAC/S/250/2022-23/1048504813(1) and No.1048495105(1), respectively.

2. At the outset, the learned Counsel appearing on behalf of the assessee pointed out that the ld.CIT(A) has dismissed the appeal of the assessee on the ground that the assessee failed to explain the delay of 391 days happened before the ld.CIT(A).

The Counsel for the assessee prayed that one more opportunity may be granted before the ld.CIT(A).

3. The learned Departmental Representative relied upon the orders of the authorities below.

4. We have heard the rival submissions and perused the material available on record. We observe that in para 2.5 at page 5 of the ld.CIT(A), there is a mention of poor health of the assessee, citing suffering from Cancer and therefore, there was a delay of 391 days before the ld.CIT(A). Considering the totality of the facts and circumstances of the case, we are of the firm view that the ld.CIT(A) ought to have condoned the delay and adjudicated the matter on merits. Hence, in the interest of justice, we restore this matter to the file of the ld.CIT(A) for fresh adjudication in accordance with law. Needless to say, the ld.CIT(A) would grant meaningful opportunity of being heard to the assessee before passing any order.

5. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 19th day of February, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 19th February, 2025.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin