

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 159/Coch/2025
Assessment Year: 2016-17**

Suma Ayirampallil Chandrangathan Appellant
Mohanalayam, Pallikachira, Vellappally
Paippad, Changanassery 686537
[PAN: AEJPC1720J]

vs.

The Income Tax Officer, Ward -2, Thiruvalla Respondent

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

Date of Hearing: 26.03.2025
Date of Pronouncement: 08.04.2025

ORDER

This appeal filed by the assessee is directed against the order of the Addl./Jt. Commissioner of Income Tax (Appeals)-1, Jaipur [CIT(A)] dated 21.02.2024 for Assessment Year (AY) 2016-17.

2. Brief facts of the case are that assessee is an individual receiving insurance commission and income from capital gain. The return of income for AY 2016-17 was filed on 22.12.2016 declaring total income of Rs. 2,83,780/-. The said return of income was processed u/s. 143(1) of the Act vide intimation dated 20.03.2017 assessing the taxable income at Rs.1,44,401/-.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

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

5. I heard the rival submissions and perused the material on record. From the perusal of the impugned order, it would reveal that no proper service of notice of hearing appears to have been issued nor reasonable opportunity was given by the NFAC. Further, there is no evidence that proper notices u/s.143(2) were issued to the appellant, in view of the submission of Id. AR, notices were issued through ITBA portal. In my considered opinion, it is not a valid method and manner of service of notice as specified under the provisions of section 282(1) of the Income-tax Act, 1961 Act and Rule 127(1) of the Income-tax Rules, 1962. Therefore, it is crystal clear that the notices were not served upon the appellant. To fortify my view, I would like to make reference to a decision rendered by the Hon'ble Punjab & Haryana High Court in the case of *Munjal BCU Centre of Innovation and Entrepreneurship Vs. CIT (Exemptions) (2024) 463 ITR 560 (P&H)*, wherein the Hon'ble High Court after making reference to provisions of 282(1) held that service of notice through ITBA portal is not valid service and remanded the matter to AO for denovo disposal of case. The relevant paragraphs of the judgment are reproduced below: -

“7. We are afraid that we cannot subscribe to the submissions as advanced by the learned counsel for the Revenue-respondent. The provisions of section 282(1) of the Act of 1961 and rule 127(1) of the Income-tax Rules, 1962 provides for a method and manner of service of notice and orders which read as follows :

.....

.....

8. In view of the above, it is essential that before any action is taken, communication of the notice must be done in terms of the provisions as enumerated hereinabove. The provisions do not mention communication to be “presumed” by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income-tax provisions and the same are required to be necessarily followed.

9. Having noticed as above, this court is of the firm view that the petitioner has not been given sufficient opportunity to put up its plea with regard to the proceedings under section 12A(1)(ac)(iii) of the Act of 1961 and as it was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.

10. In view of the above, the writ petition is allowed and the order dated January 16, 2023 (annexure P-5) is quashed and set-aside. The Department would provide an opportunity of hearing to the petitioner and they will also allow the petitioner to appear personally for the purpose and pass a speaking order independent of the order passed earlier by them on January 16,2023. The same shall be done expeditiously provided the petitioner file his reply within a period of three weeks.”

In view of the above legal position, I am of the considered opinion that proper notice(s) of hearing were not served properly to the appellant. Therefore, I am of the considered opinion that in the interest of justice, the matter should be remitted back to the file of CIT(A) for de novo adjudication after affording reasonable opportunity to the appellant, in accordance with law. The appellant is at liberty to file any evidence in support of claim as deems expedient.

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

Order pronounced in the open court on 8th April, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 8th April, 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

Assistant Registrar
ITAT, Cochin