



3. Brief facts of the case are that the appellant is a company duly incorporated under the provisions of Companies Act, 1956. The appellant is engaged in the business of running a hospital. The return of income for AY 2018-19 was filed on 28.10.2018 declaring loss of Rs. 13,45,69,947/-. Against the said return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 23.04.2022 at a total income of Rs. 18,66,25,520/-. While doing so, the AO made the following additions: (i) disallowance of Rs. 8,67,88,000/- and (ii) disallowance of share capital u/s. 68 of the Income Tax Act, 1961 (the Act) of Rs. 15,19,83,200/-, as the appellant failed to discharge the onus of proving the genuineness, creditworthiness and identity of the lenders. The AO also initiated penalty proceedings u/s. 271AAC(1) of the Act. Accordingly the appellant was show caused u/s. 271AC on 23.04.2021. In spite of several opportunities the appellant could not file any explanation to the show cause notices. Therefore, the AO proceeded with levy of penalty of Rs. 91,18,922/- u/s. 271AAC of the Act vide order dated 14.02.2022.

4. Being aggrieved, an appeal was filed before the CIT(A) with a delay of 295 days. The CIT(A) refused to condone the delay and dismissed the appeal for non prosecution.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. There is a delay of 22 days in filing the appeal before us. It is stated that the appellant was not aware of the order passed by the CIT(A) till the communication received from the jurisdictional assessing authority on 29.08.2024. Thus, it is submitted that the delay had occurred on account of the factors beyond the control of the assessee. We are satisfied with the reasons for the delay. Therefore, we condone the delay and admit the appeal for adjudication.

7. We have heard the rival contentions and perused the material available on record. We found that the CIT(A) refused to condone the delay in filing the appeal before him by holding that the reasons given for the delay were vague. We had carefully perused the explanation furnished before the CIT(A) for the delay. We are of the considered opinion that the CIT(A) passed the exparte order as the appellant could not cause appearance to the notice of hearing, as it was sent through email. The CIT(A) had to serve notice through alternate modes of services of notice, when the appellant had not responded to the notices sent through email and further the appellant should have been given a reasonable opportunity to explain the reasons for the delay in filing the appeal before the CIT(A). In the circumstances of order of the CIT(A) is set aside and remand the matter back to the file of the CIT(A) for de novo disposal in accordance with law decide the appeal in accordance with law after affording reasonable opportunity of hearing to the appellant reasonable opportunity of being heard to the appellant.

8. In the result, appeals filed by the assessee stand partly allowed.

Order pronounced in the open court on 29<sup>th</sup> April, 2025.

Sd/-  
**(SOUNDARARAJAN K.)**  
**JUDICIAL MEMBER**

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

Cochin, Dated: 29<sup>th</sup> 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