

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, COCHIN**

Before Shri Inturi Rama Rao, Accountant Member

ITA No.320/Coch/2025 : Asst.Year 2012-2013

M/s.Tileco T-P-9/326, Raroth, Thamarassery Kozhikode – 673 006. PAN : AAFT5971B.	v.	The Income Tax Officer Ward 2(3) Kozhikode.
(Appellant)		(Respondent)

Appellant by : Ms.Jinu Pookkat, Advocate
Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 05.05.2025	Date of Pronouncement : 13.05.2025
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ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre / Commissioner of Income-tax (Appeals) [hereinafter “the CIT(A)”] dated 03.08.2023 for the assessment year 2012-2013.

2. Briefly, the facts of the case are that the appellant is a partnership firm, engaged in the business of dealing in commercial and vitrified tiles and pipes of all kinds. The return of income for the assessment year 2012-2013 was filed on 15th May, 2013 disclosing an income of Rs.1,12,750. The said return of income was completed by the Income Tax Officer, Ward 2(3), Kozhikode (hereinafter “the AO”), vide order dated 26th March, 2015 passed u/s.143(3) of the Income-tax Act, 1961 (hereinafter “the Act”) at a total income of Rs.44,74,020. While doing so, the AO

made disallowance of ocean freight charges by invoking the provisions of sec.40(a)(ia) of the Act, amounting to Rs.42,99,972 for failure of the appellant to deduct tax at source, and also on account of cash payment of freight charges of Rs.61,300.

3. Being aggrieved by the above assessment order, an appeal was preferred before the CIT(A), who vide the impugned order, dismissed the appeal *in limine* for non-prosecution.

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 available on record. At the outset, I find that there is a delay in filing the present appeal before the Tribunal by 577 days. The appellant filed a petition along with an affidavit, seeking condonation of delay, which reads as under :-

“1: I am the Managing Partner of the Petitioner firm which is the appellant in the main appeal. The present petition is being filed seeking orders condoning the delay in filing the second appeal before this Hon'ble Tribunal.

2: The Petitioner/Appellant had filed its Rol for AY 2012.13 on 15.05.2013 declaring a Net Income of Rs. 112,750/= : The said Return was taken up for scrutiny and as per orders dated 26.03.2015, the assessing authority completed the assessment where he resorted to disallowance of Rs. 4299,972/= u/s 40[a] [ia] for failure to deduct tax as required u/s 194C on ocean freight paid and Rs. 61,300/= under 40A[3] - being payment by cash: The said order was challenged before the CIT [Appeals] Kozhikode on 24.04.2015.

3: Nothing further was heard in the matter. However sometime during the last week of March 2025, petitioner received a notice dt. 25.03.2025 observing that Petitioner has not responded to Show Cause Notice issued in penalty proceedings u/s 271 [1] [c] of the Act for AY 2012.13. The Petitioner thereafter accessed the Portal when the presence appellate order u/s 250 of the Act dated 03.08.2023 was noticed. A perusal of the said order indicated that the appeal filed before jurisdictional appellate authority was transferred to National Faceless Appeal Centre and that the National Faceless Appeal

Centre had dismissed the appeal alleging that the Petitioner has not responded to three hearing notices issued.

4: it is submitted that the Petitioner had filed the appeal before the Jurisdictional Assessing Authority and was not aware of the transfer of the same to NFAC. Further in the appeal, the Petitioner had indicated that the notice of hearing of appeal should be sent to the office address. Apparently, no notices were sent to the office address. Petitioner submits that they had not received any of the notices alleged to have been sent. Petitioner became aware of the disposal of the appeal as per the impugned order only on receipt of the notice dated 25.03.2025.

5: The Petitioner has this day, filed an appeal against the above assessment order as confirmed in appeal as per order dated 03.08.2023. Going by the date of order as uploaded on the Portal - there is a delay of 576 days in the filing of the appeal though going by the notice dated 25.03.2025 which made the Petitioner aware of the appellate order there is no delay which was neither wilful nor deliberate. Petitioner will be put to irreparable loss and injury if the above delay is not condoned.

It is therefore prayed that the technical delay of 576 days in filing the appeal may kindly be condoned and the appeal taken on files.

The above facts are true.

6. From the above petition, I do not find any plausible explanation for the delay that was caused in filing the present appeal. Therefore, I am of the considered opinion that it is not a fit case to condone the delay. Accordingly, I reject the condonation petition.

7. Since, I dismissed the appeal on the ground of delay itself, the issue raised in the appeal, on merits, is not adjudicated.

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

Order pronounced on this 13th day of May, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Cochin; Dated : 13th May, 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