

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM****ITA No. 47/Coch/2025
Assessment Year: 2015-16**

Mohammed Ali Abdulla Appellant
Erivottkuni House,
Payyoili Angadi, Thurayur,
Kozhikode-673523.
PAN: CDFPM5769J

vs.

The Income Tax Officer Respondent
Ward-2(2),
Kozhikode.

Appellant by: Shri C B M Warriar, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 28.05.2025
Date of Pronouncement: 26.06.2025

ORDER**Per: Inturi Rama Rao, AM**

This appeal filed by the assessee is directed against the order of the Commissioner of Income (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 23/09/2024 for Assessment Year (AY) 2015-16.

2. Briefly the facts of the case are that the assessee is an individual, Non-Resident Indian. No regular return of income was filed for the AY 2015-16. The National Faceless Assessment Centre, Delhi (hereinafter referred to as “AO”) based on the information that the appellant made cash deposits ie., (a) amount of Rs. 35 lakhs in Canara Bank Account, Payyoli Branch; (b) Rs.72,50,000/- in Axis Bank Account; (c) the assessee has deposited cash aggregating Rs. 58,00,000/- with a banking company. Further, the assessee also (d) purchased immovable property of Rs. 21,60,000/- and (e) sold immovable property valued at Rs. 32,50,000/-, formed an opinion that the income escaped assessment of tax. Accordingly, a notice U/s. 148 of the Income Tax Act, 1961 (in short “the Act”) was issued on 29/03/2021 and the appellant has neither complied with the notice U/s. 148 nor with the notice U/s. 142(1) of the Act. In the circumstances, the AO has proceeded to frame an ex-parte assessment. Accordingly, passed the assessment order after making an addition of Rs. 1,98,00,000/- being unexplained cash deposits made in the bank account and also Rs. 21,60,000/- on account of unexplained investment vide order dated 30/03/2022 passed U/s. 147 r.w.s 144 r.w.s 144B of the Act.

3. Being aggrieved by the order of the AO, an appeal was filed by the assessee before the CIT(A) with a delay of 111 days. The appellant had explained the reason before the CIT(A) stating that the delay in filing the appeal has occurred claiming ignorance of the assessment order passed.

However, the CIT(A) had refused to condone the delay of 111 days accordingly dismissed the appeal in limine.

4. Being aggrieved the appellant is in appeal before us challenging the action of the CIT(A) in refusing to condone the delay.

5. It was contended that the CIT(A) ought to have condoned the delay of 111 days and admitted the appeal on merits having regard to the explanation offered before him.

6. On the other hand, the Ld. Sr. DR placed reliance on the decision of the lower authorities and submits that the CIT(A) has passed the reasoned order and therefore, no interference is called for.

7. We heard the rival submissions and perused the material available on record. The issue that arises for our consideration is whether the CIT(A) was justified in refusing to condone the delay of 111 days and dismissing the appeal in limine. From the explanation filed before the CIT(A), it is clear that the assessee had explained that the delay in filing the appeal before the NFAC had occurred on account of the fact that the assessment order was sent to registered email Id which is inactive and the orders were not sent physically. The assessment order had come to the knowledge of the assessee only when the jurisdictional Assessing Officer issued notice for recovery of the demand. The mere reading of CIT(A) order it would be clear that the above contention of the appellant could not be rebutted by the CIT(A), there is nothing on record to controvert the explanation of the appellant. In these circumstances,

the CIT(A) ought to have condoned the delay of 111 days and admitted the appeal for adjudication on merits. Accordingly, the order of the CIT(A) is set-aside and remit the matter to the file of the CIT(A) for de novo disposal of the appeal in accordance with law.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 26th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 26th June, 2025

okk sps

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