

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 1048/Coch/2024
Assessment Year: 2017-18**

Laila Agencies Appellant
Paliakara, Thiruvalla 689101
[PAN: AAEFL0921D]

vs.

The Income Tax Officer, Ward-2 Respondent
T.K. Road, Thiruvalla 689101

Appellant by: Ms. Krishna K., Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 21.05.2025
Date of Pronouncement: 27.06.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi dated 26.02.2024 for Assessment Year (AY) 2017-18.

2. The appellant is a partnership firm engaged in the business of dealing in stationery items. No regular return of income for AY 2017-18 under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) was filed by the appellant. The AO formed an opinion that income escaped assessment to tax. Accordingly, notice u/s. 148 of the

Act was issued on 29.03.2021. The appellant neither complied with the notices u/s. 148 nor notice u/s. 142(1)(ii) of the Act, which were issued by the AO. In the circumstances, the AO proceeded with framing of best judgement assessment based on the material on record. While doing so, the AO passed assessment order dated 23.03.2022 passed u/s. 147 r.w.s. 144 and 144B of the Act wherein addition of Rs. 1,07,09,240/- was made on account of cash deposits made with the State Bank of India as unexplained money of the appellant.

3. Being aggrieved, an appeal was filed before the CIT(A) with a delay of 5 month. The appellant had filed explanation before the CIT(A) stating that the delay had occurred on account of dispute with the previous counsel without substantiating the same. The CIT(A), however, dismissed the appeal without condoning the delay.

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

5. At the outset we find that there is a delay in filing the appeal before the Tribunal by 236 days. The appellant had filed a petition seeking condonation of delay on the ground that since the appellant was out of business and the order passed by the CIT(A) was not noticed by it.

6. We have heard the rival contentions and perused the material available on record. The appellant had filed a petition along with affidavit seeking condonation of delay stating as under: -

“2. This appeal is filed against the order of the first appellate authority rejecting the appeal without hearing the appellant.

3. I have been served with the order passed by the CIT (Appeals), National Faceless Appeal Centre on 26-02-2024. The appeal against the above order ought to have been filed on or before 26-04-2024.

4. Unfortunately, since this partnership firm went out of business in 2021, nobody was aware of the issuance of the appellate order.

5. Since the firm was out of business, we did not log in to the income tax portal as well and hence, none of us were aware of such an order.

6. I had not noticed the appellate order as I was out of station from April to September 2024. Only when I enquired about the appeal later was I when I got confirmation of the issuance of the appellate order.

7. Thereafter, I have come and met the counsel at Ernakulam on 11-12-2024. This appeal is prepared and filed on 18-12-2024. Thus there is a delay of 236 days in filing this appeal, which is caused in the above circumstances and not willfully. If the said delay is not condoned, the appellant will be put to irreparable damages.

8. Therefore it is humbly prayed that the delay of 236days in filing this appeal may be condoned and this appeal admitted on files of this Hon'ble Tribunal.”

7. On a mere perusal of the above affidavit it would be clear that the appellant had not filed any evidence to show that the appellant is not aware of the order passed by the NFAC. However, even before the AO and CIT(A), the appellant had not caused appearance without any valid reason. Thus, the explanation filed by the appellant is not bona fide one. No plausible explanation for the

delay was shown before the Tribunal. Therefore, in view the decision of the Hon'ble Supreme Court in the case of Mrinmoy Maity v. Chhanda Koley [2024] SCC OnLine SC 551 wherein the Hon'ble Supreme Court observed that an litigant who approach the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief as delay is defined as guilty.

8. In the result, the appeal filed by the assessee is dismissed on the ground of delay and laches.

Order pronounced in the open court on 27th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th June, 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

By Order

Assistant Registrar
ITAT, Cochin