IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH

BEFORE SHRI INTURI RAMA RAO, AM
AND SONJOY SARMA, JM

ITA No.64/Coch/2025
Assessment Year:2012-13

Benedict Wilfred ..... Appellant
513, 350 Punchiri,
Kottappuram, Vizhinjam,
Thiruvananthapuram-695521.
PAN: AHVPB6093J

vs.

Income Tax Officer ..... Respondent
Ward-1(1),
Thiruvananthapuram.

Appellant by: Shri Shaji V Nair, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 03.06.2025
Date of Pronouncement: 30.06.2025

O R D E R

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 21/10/2024 for Assessment Year (AY) 2012-13.

2. At the outset, it is noticed that there is a delay of 33 days in filing the appeal before the Tribunal. With respect to the belated filing of the appeal, the appellant filed a petition seeking condonation of delay wherein it was stated that due to the pre-occupied works and the other personal reasons, the Authorized Representative of the assessee was not available and therefore, it took time to file the appeal beyond the prescribed time limit. Considering the reasons advanced by the assessee, we are of the considered opinion that the reason for the delay ie., non-availability of the AR for the assessee during the relevant period of time constitutes a reasonable and sufficient cause. Therefore, we hereby condone the delay of 33 days in filing the appeal before the Tribunal proceed to adjudicate the appeal on merits.

3. Briefly the facts of the case are that the appellant is an individual engaged in the business of running restaurant. The Return of Income for the AY 2012-13 was filed on 16/01/2013 declaring a total income of Rs. 43,62,320/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(1), Trivendrum (hereinafter referred to as "AO") vide order dated 30/10/2014 passed U/s. 143(3) of the Income Tax Act, 1961 (in short "the Act") at a total income of Rs. 44,62,320/- after making addition of Rs. 1,00,000/- by disallowance of expenditure. Subsequently, the AO has passed an order U/s. 154 of the Act by disallowing a sum of Rs. 15,10,743/- being the interest amount paid to the investor Ms Gaby Bernaisch.

4. Being aggrieved by the order passed U/s. 154 of the Act, an appeal was filed before the CIT(A) contending that the AO was not justified in disallowing the expenditure of interest of Rs. 15,10,743/- in the proceedings U/s. 154 of the Act. However, the CIT(A) dismissed the appeal by holding that the expenditure is no way connected with the cost of acquisition or the expenditure relatable to the transfer of property.

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

6. It is contended that the order U/s. 154 was passed without giving a notice to the appellant proposing the disallowance of interest component of Rs. 15,10,743/-. The order of passed U/s. 154 of the Act came to be noticed through ITBA portal. Therefore, it is submitted that the order U/s. 154 of the Act was passed without giving opportunity of being heard to the appellant. Hence, it is the prayer of the appellant that the matter may be remanded to the file of the AO to pass a fresh order after affording a reasonable opportunity of being heard to the assessee.

7. On the other hand, the Ld. Sr. AR has not disputed the fact that the appellant was not given a notice of proposed rectification U/s. 154 of the Act and had no serious objection to remand the matter back to the file of the AO for fresh disposal of the case in accordance with law.

8. We order accordingly and set-aside the matter back to the file of the AO, with a direction to issue a notice U/s. 154 of the Act of proposed

disallowance to the appellant company and pass the order in accordance with law after affording a reasonable opportunity of being heard to the assessee-appellant.

9. In the result, appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 30th June, 2025.

Sd/-	Sd/-
(SONJOY SARMA)	**(INTURI RAMA RAO)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Cochin, Dated: 30th 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