

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI SONJOY SARMA, JM****ITA No. 150/Coch/2025  
Assessment Year:2018-19**

Mr. Chudukadu Parambu Muhammed Sali ..... Appellant  
Puthiyathoppu Thoduka, Francis Road,  
Kallai Post, Kozhikode District,  
Kerala-673003.  
PAN: BYCPP4655F

vs.

The Income Tax Officer ..... Respondent  
Ward-1(3),  
Kozhikode.

Appellant by: Shri Rafeek Kottackal, Advocate  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.06.2025  
Date of Pronouncement: 30.06.2025

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

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 16.12.2024 for Assessment Year (AY) 2018-19.

2. Brief facts of the case are that the appellant is an individual. No regular Return of Income under the provisions of section 139(1) of the Act was filed for the AY 2018-19. Subsequently, based on the information that the appellant made cash deposits aggregating to Rs. 2,65,96,000/- and withdrawn the cash of Rs. 42,58,300/- in the bank account maintained with Federal Bank during Financial Year (FY) 2017-18 relevant to the AY 2018-19, the AO formed the opinion that the income escaped assessment to tax and accordingly issued a notice U/s 148 of the Income Tax Act, 1961 (in short “the Act”) on 24.03.2022. The appellant neither complied with the notice U/s. 148 of the Act nor the notice U/s. 142(1) of the Act. In these circumstances, the AO proceeded in framing the Best Judgment Assessment by treating the entire cash deposits in the bank account as business receipts and estimated the income @ 8% of the total credits and thus, made an addition of Rs. 26,82,415/- vide order dated 09/03/2023 passed U/s. 147 r.w.s 144 r.w.s 144B of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A) contending that the appellant could not comply with the notices of hearing issued by the AO as the hearing notices were issued to the email Id which does not belong to the appellant. It is further contended that adoption of 8% of Net Profit is arbitrary and excessive in the facts and circumstances of the case etc. However, the CIT(A) dismissed the appeal for non-prosecution without dealing the matter on merits of the addition.

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

5. It is submitted that the CIT(A) ought to have given a reasonable opportunity of being heard to the appellant and further contended that the CIT(A) ought to have dealt with the issue in appeal on merits even in the case of ex-parte order.

6. On the other hand, the Ld. Sr. DR supporting the orders of the lower authorities submits that no interference is called for as the appellant has not complied with the notices issued by the National Faceless Appeal Centre.

7. We heard the rival submissions and perused the material available on record. At the outset, we find that the NFAC has dismissed the appeal in limine for non-prosecution. The appellant challenged the assessment order on several counts including no reasonable opportunity of being heard to the appellant was given and also excess rate of profit adopted by the National Faceless Appeal Centre. The appellant had raised six grounds of appeal. However, the CIT(A) without dealing with the issues raised by the appellant, merely dismissed the appeal in limine.

8. We find that the learned CIT(A) dismissed the appeal *in limine* for non prosecution. As contemplated u/s. 250(6) of the Act the CIT(A) is required to frame points of determination followed by a detailed discussion thereupon before passing the order. It is the settled position of law that the CIT(A), even while disposing of the appeal exparte, is duty bound to dispose of the appeal on

merits. Reliance in this regard can be placed on the decision of the Hon'ble Bombay High Court in the case of PCIT vs. Premkumar Arjundas Luthra 279 CTR 614. Therefore, in the light of the above legal position we are of the considered view that the matter requires to be remanded to the file of the CIT(A) with the direction to dispose of the appeal de novo on merits after affording reasonable opportunity of hearing to the assessee.

9. In the result, appeal of the assessee stands partly allowed.

Order pronounced in the open court on 30<sup>th</sup> June, 2025.

Sd/-  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

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

Cochin, Dated: 30<sup>th</sup> 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