

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

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

**ITA Nos. 365 to 367/Coch/2025  
Assessment Years: 2015-16 to 2017-18**

Monzey Varghese ..... Appellant  
Mazhuvancheryparambath, Tharayil  
Pallipuram, Cochin 683514  
[PAN: ABOPV3768K]

vs.

The Income Tax Officer, Mattanchery, Kochi ..... Respondent

Appellant by: Shri K.K. Jose, CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 13.06.2025  
Date of Pronouncement: 31.07.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 27.01.2025 for Assessment Year (AY) 2015-16 to 2017-18.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 365/Coch/2023 for AY 2015-16 are stated herein.

4. Brief facts of the case are that the appellant is an individual. No regular return of income for AY 2015-16 was filed by the appellant. The National Faceless Assessment Centre, Delhi (hereinafter called "the AO") gathered information from ITBA portal that the appellant made cash deposits in SB accounts maintained with Indus Ind Bank and HDFC Bank of Rs. 1,03,12,700/- and also received interest from debentures of Rs. 98,424/- and rental income of Rs. 4,62,000/- and formed opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 of the Income Tax Act, 1961 (the Act) on 30.03.2021. The appellant did not comply with the notices issued u/s. 148 and 142(1) of the Act. In the circumstances proceeded to with making of best judgement assessment by making additions on account of following items vide order dated 31.03.2022: -

i) Interest of Debentures	Rs. 98,424/-
ii) Cash Deposits	Rs. 1,03,12,700/-
iii) Rental Income	Rs. 4,62,000/-

5. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal for non prosecution placing reliance on several judgements.

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

7. At the outset we find that there is a delay of 48 days in filing the present appeal. The appellant filed a petition along with an affidavit seeking condonation of delay in filing the appeal, wherein it is stated that the delay had occurred due to the fact that the email ID provided in Form 35 belonged to the staff of the CA office who was entrusted with filing of the appeal. This staff left the office and the communication sent to this mail had not reached the appellant. Hence, the delay is not willful or deliberate. Therefore, it is prayed that the delay in filing the appeal may be condoned and the appeal may be admitted for adjudication. Having regard to the averments made in the affidavit seeking condonation of delay, in the absence of any evidence contrary, we are of the considered opinion that the appellant is prevented by sufficient reasonable cause in filing the appeal within the prescribed limit. Accordingly, we condone the delay and admit the appeal for adjudication.

8. The learned counsel for the assessee submits that the notices of hearing issued by the CIT(A) were not served on the appellant as the email ID provided in Form 35 belongs to the staff of the Chartered Accountant's office who submitted the appeal. Since the staff left employment of the CA's office notices of hearing could not be complied with. Further, he submitted that the CIT(A) had uploaded the notices only on ITBA portal, which is not a valid mode

of service. Therefore, he submits that the matter be remanded to the CIT(A) for fresh adjudication.

9. On the other hand, the learned Sr. DR opposed the contentions and submitted that the appellant neither complied with the notices issued by the AO nor the notices of hearing issued by the CIT(A). The appellant was non-cooperative with assessment proceedings. Therefore the order passed by the CIT(A) is valid and no interference is called for.

10. We have heard the rival contentions and perused the material available on record. The only issue that arises for our consideration is whether the exparte order passed by the CIT(A) is valid in law. At the outset we find that the CIT(A) issued hearing notices through ITBA portal as evident from para 6 of the impugned order before us. Therefore, it is crystal clear that the notices were not served upon the appellant. To fortify our view, we would like to make reference to a decision rendered by the Hon'ble Punjab & Haryana High Court in the case of *Munjal BCU Centre of Innovation and Entrepreneurship Vs. CIT (Exemptions)* (2024) 463 ITR 560 (P&H), wherein the Hon'ble High Court after making reference to provisions of 282(1) held that service of notice through ITBA portal is not valid service and remanded the matter to AO for denovo disposal of case. The relevant paragraphs of the judgment are reproduced below :

*“7. We are afraid that we cannot subscribe to the submissions as advanced by the learned counsel for the Revenue-respondent. The provisions of section 282(1) of the Act of 1961 and rule 127(1) of the Income-tax Rules, 1962 provides for a method and manner of service of notice and orders which read as follows :*

*.....  
.....*

*8. In view of the above, it is essential that before any action is taken, communication of the notice must be done in terms of the provisions as enumerated hereinabove. The provisions do not mention communication to be “presumed” by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income-tax provisions and the same are required to be necessarily followed.*

*9. Having noticed as above, this court is of the firm view that the petitioner has not been given sufficient opportunity to put up its plea with regard to the proceedings under section 12A(1)(ac)(iii) of the Act of 1961 and as it was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.*

*10. In view of the above, the writ petition is allowed and the order dated January 16, 2023 (annexure P-5) is quashed and set-aside. The Department would provide an opportunity of hearing to the petitioner and they will also allow the petitioner to appear personally for the purpose and pass a*

*speaking order independent of the order passed earlier by them on January 16,2023. The same shall be done expeditiously provided the petitioner file his reply within a period of three weeks.”*

11. Further, when the appellant had not responded to the notices issued by the CIT(A), the SOP issued by the department mandate service of notice through alternate methods of serving of notices, i.e. by physical mode, which the CIT(A) had failed to do. In the circumstance, we hold that the notices of hearing issued by the CIT(A) are not valid in law. Accordingly, the order passed by the CIT(A) is set aside and remand back to the file of the CIT(A) for de not adjudication of the issues in the appeal in accordance with law after affording reasonable opportunity of hearing to the appellant.

12. Since identical issues and facts are involved in assessee’s appeal ITA Nos. 366 & 367/Coch/2025, our findings in ITA No. 365/Coch/2025 shall apply mutatis mutandis to this appeal also.

13. In the result, the appeals filed by the assessee stand partly allowed for statistical purposes.

Order pronounced in the open court on 31<sup>st</sup> July, 2025.

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

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

Cochin, Dated: 31<sup>st</sup> July, 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