

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI RAHUL CHAUDHARY, JM**

**ITA No. 533/Coch/2025
& SA No. 72/Coch/2025
Assessment Year: 2017-18**

Parakkadath Simon Varghese Appellant
Parakkadath House, Koratty South, Thrissur
[PAN: AFGPV9060G]

vs.

DCIT (International Taxation), Kochi Respondent

Assessee by: Shri Gibi C. George, Advocate
Revenue by: Ms. Neethu S., Sr. DR

Date of Hearing: 18.08.2025
Date of Pronouncement: 20.08.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 26.05.2025 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is an individual engaged in the business of real estate. The return of income for AY 2017-18 was filed declaring income of Rs. 5,33,866/-. Against the said return of income, the assessment was completed by the DCIT, Circle International Circle, Kochi (hereinafter called "the AO") vide

order dated 28.12.2019 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 1,83,38,408/-. While doing so, the AO made the AO made addition on account of long term capital gains of Rs. 1,50,56,542/- by adopting the sale consideration of Rs. 2,99,97,500/- as against the sale consideration shown at Rs. 1,08,48,000/-. The AO also made addition of short term capital gains of Rs. 27,48,000/- on sale of land as the appellant had failed to furnish information called for in support of the return of income submitted by the appellant.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal in limine for non-prosecution.

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

5. The learned counsel for the assessee submits before us that the appellant could not appear before the AO on account of serious medical emergencies affecting both the appellant and his counsel. It is further submitted that the notices issued by the CIT(A) went to the email ID of the ex-employee of the appellant. Hence, the appellant could not be caused appearance before the learned lower authorities.

6. On the other hand, the learned Sr. DR submits that the appellant had been non-compliant with the notices issued by the learned lower authorities. In the circumstances, the learned lower

authorities were constrained to pass ex parte orders. Therefore, no interference is called for.

7. We have heard the rival contentions and perused the material on record. At the outset, we find that the NFAC had issued notices of hearing through ITBA Portal. In our considered opinion, it is not a valid method and manner of service of notice as specified under the provisions of section 282(1) of the Income-tax Act, 1961 Act and Rule 127(1) of the Income-tax Rules, 1962. 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 de novo 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.”*

In view of the above legal position, we are of the considered opinion that proper notice(s) of hearing were not served properly to the appellant. Therefore, we are of the considered opinion that in the interest of justice, the matter should be remitted back to the file of Id. CIT(A) for de novo adjudication after affording reasonable

opportunity to the appellant, in accordance with law. The appellant is at liberty to file any evidence in support of her claim as he deems expedient.

8. Since we have disposed off the appeal, the stay application filed by the assessee stands dismissed.

9. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes and the stay application stands dismissed.

Order pronounced in the open court on 20th August, 2025.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 20th August, 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