

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

**BEFORE S/SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA Nos.486 & 487/Coch/2025
Assessment Years: 2015-16 &2016-17

Kaoser Charitable Trust, Kaoser Complex Caltex South Bazar, Kannur- 670002	Vs.	Income Tax Officer, Exemption Ward, Kannur
PAN No.AACFK 6890 J		
APPELLANT		RESPONDENT

Assessee by	:	Shri Arun Raj, Sr Adv.
Revenue by	:	Smt. Leena Lal, Sr. DR

Date of hearing	:	06.08.2025
Date of Pronouncement	:	20.08.2025

ORDER

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

Both the appeals of the assessee are arising from the order of the Id Commissioner of Income Tax (Appeal) NFAC, Delhi, dated 22.1.2025 having DIN No.ITBA/APL/S/250/2024-25/1072425463 (1) and relates to assessment year 2015-16 and order dated 16.12.2024 having DIN No. ITBA/APL/S/250/2024-25/107124894(1) and relates to assessment year 2016-17.

2. ITA No.486/Coch/25 relating to assessment year 2016-17 is arising from the order of the Ld. AO, wherein, the Ld. AO has brought to

tax an amount of Rs.44,12,615/- as unexplained cash credit u/s 68 of the Act and ITA No.487/Coch/2025 relating to assessment year 2015-16 is against levy of penalty u/s.272A(2)(e) of the Act. Since both these appeals are relating to common assessee, we are deciding these appeals by way of this common order.

3. At the outset, it is noted that both these appeals have been decided by the Id CIT(A) exparte. Ld CIT(A)has just confirmed the additions made by the Assessing Officer and decided the appeal without dealing with the merits of the addition in terms of provisions of section 250(6) of the Act.

4. Ld counsel for the assessee prayed that the matters may be restored to the file of the Id CIT(A) for deciding afresh inasmuch as no notice of hearing issued by the office of the Id CIT(A) has been received by the assessee.

5. Ld Sr.DR relied upon the orders of the authorities below.

6. We have heard the rival submissions and perused the materials available on record. We observe that the office of the Id CIT(A) has issued around four notices of hearing to the assessee. We further observe that the order of the Id. CIT(A) is silent with respect to the service of notice of hearing upon the assessee. It is settled position of

law that the Id CIT(A) is duty bound to dispose of the matters in a judicious manner in terms of provisions of section 250(6) of the Act. It is expected from the Id CIT(A) that he will decide the merits of the case irrespective of the fact that whether anybody appeared from the side of the assessee or not. A reference can be made to the judgment of Hon'ble Bombay High Court in the case of Prem Kumar Arjundas Luthra (HUF) (2017) **297 ITR 614** (Bom), wherein, the Hon'ble High Court has held that the Id CIT(A) is duty bound to decide the appeals after dealing with the merits of the additions made by the Assessing Officer. Therefore, we hereby restore these appeals to the file of the Id CIT(A) to decide afresh. Needless to say that the Id CIT(A) will grant meaningful opportunity to the assessee before passing any order.

7. In the result, both the appeals of the assessee stand allowed for statistical purposes.

Order pronounced in court on 20th day of August, 2025

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore
Dated, 20th August, 2025
/B..K.Parida, sr.PS(OS)

Copy to:

1. The Applicant:**Kaoser Charitable Trust, Kaoser Complex Caltex South Bazar, Kannur-670002**
2. Income Tax Officer, Exemption Ward, Kannur
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Cochin