

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

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

S. A. No. 63/Coch/2025 (in ITA No. 447/Coch/2025) & ITA No. 447/Coch/2025 Assessment Year : 2017-18
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M/s. Phos Infrastructure and Power Solutions Pvt. Ltd., 5/1507-1, Meridian Mansion Building, Nadakkavu, Kozhikode, Kerala – 673 011. PAN: AAHCP2431N	Vs.	The Income Tax Officer, Circle – 1(1) & TPS, Kozhikode.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Shreya S Samuel, CA
Revenue by	:	Smt. Leena Lal, Snr. AR

Date of Hearing	:	04-08-2025
Date of Pronouncement	:	26-08-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 29/04/2024 in respect of the A.Y. 2017-18.

2. The assessee filed this appeal with a delay of 40 days and also enclosed an application to condone the said delay. In the said application,

the assessee submitted that the appeal order was not received through the email and thereafter on receipt of telephonic message from the AO, the assessee received the physical copy on 25/02/2025. Thereafter the appeal was filed with a delay of 40 days and prayed to condone the said delay. We have considered the above said facts and also the delay is a minimal delay, in the interest of justice, we are condoning the said delay and proceeded to decide the appeal on merits.

3. At the time of hearing, the Ld.AR submitted that the assessment order as well as the order of the Ld.CIT(A) are ex-parte and therefore the assessee has not been provided a reasonable opportunity of being heard and prayed that one more opportunity may be granted to putforth their case before the AO. The Ld.AR further submitted that all the details were filed before the AO but unfortunately the AO had not considered the same and prayed one more opportunity to place the facts again before the AO. The Ld.AR further submitted that the assessee company was in fact not received the notices as well as the appellate order and therefore prayed that an opportunity may be granted.

4. The Ld.DR relied on the orders of the lower authorities.

5. We have heard the arguments of both sides and perused the materials available on record.

6. As seen from the assessment order, the AO had observed that the assessee had not responded to the notices issued u/s. 142(1) of the Act as well as not filed their return of income for the A.Y. 2017-18. But in the grounds of appeal filed before us, the assessee had given the acknowledgement number for filing the return of income on 26/11/2016. We have also considered the submissions made by the assessee that the assessee had filed all the details before the AO by appearing in person and therefore it seems that the AO had not passed the assessment order after

considering the submissions made by the assessee including the return of income filed for the A.Y. It is the case of the assessee that all the monies received and deposited during the demonetisation period were properly recorded in their books of accounts which was also reported in the return of income filed for the A.Y. in dispute. From the said facts, it came to light that the assessment order made u/s. 144 of the Act is not correct. But unfortunately, the assessee was not appeared before the Ld.CIT(A) on the reason that they have not received the notices as well as the appeal order and unable to get the physical copy of the assessment order in person and thereafter the appeal before this Tribunal has been filed.

7. Considering the above said facts and circumstances of the case and also in the interest of justice, we are of the view that one more opportunity needs to be granted to the assessee to substantiate their case before the AO.

8. We, therefore set aside the order of both the authorities and remit this issue to the file of the AO for denovo consideration including the return, if any, already filed by the assessee and also the details furnished by the assessee. We also permit the assessee to submit further documents, if required, before the AO at the time of passing the assessment order. In view of the disposal of the main appeal, the stay application becomes infructuous and the same is dismissed.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay application is dismissed as infructuous.

Order pronounced in the open court on 26th August, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 26th August, 2025
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin