

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI ANIKESH BANERJEE, JM**

**ITA Nos. 614 & 615/Coch/2025
Assessment Year: 2017-18**

Mr. Anil Appellant
Poliyaparambil, Koothattukulam 686662
[PAN: BEBPA1163E]

vs.

ITO, Non Corporate Ward-1(1), Kochi Respondent

Assessee by: Shri C.V. Vishnu Das K.
Revenue by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 28.10.2025
Date of Pronouncement: 30.10.2025

ORDER

Per: Anikesh Banerjee, JM

Instant group of appeal of the assessee is preferred against the order of the National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for the Assessment Year 2017-18, date of orders 13/06/2025 & 17/06/2025. The impugned orders emanated from the order of the National Faceless Assessment Centre, Delhi (for brevity, the "Ld. AO") passed under section 147 r.w.s. 144B of the Act, date

of order 29/03/2022 and order passed u/s 271AAC(1) of the Act, date of order 07/09/2022.

2. Both the appeals have common issue. All the appeals are heard together& disposed of together. ITA No. 614/Coch/2025 is taken as lead case.

ITA No. 614/Coch/2025

3. The assessee had not filed the return of income U/s 139(1) of the Act. The return was filed in response to notice U/s 148 of the Act. The assessment was completed with addition of Rs.1,50,92,230/- as unexplained cash credit. Being aggrieved, the assessee challenged the impugned assessment order before the Ld. CIT(A). However, the appeal was filed with a delay of 254 days. The Ld. CIT(A), without going into the merits of the case, dismissed the appeal on the ground of limitation. The assessee, being further aggrieved, has filed the present appeal before us.

4. We have heard the rival submissions and carefully considered the material available on record. It is noted that the assessee had filed the appeal before the Ld. CIT(A) with a delay of 279 days. The explanation was filed by the assessee before the 1st Appellate Authority which reproduced as below:-

"It is humbly submitted that this prayer with a request for condonation of delay for an extension of time to file this appeal before the learned Commissioner of Income Tax (Appeals). The Appellant submits that there is a delay of 311 days in preferring the above-mentioned Appeal.

The Appellant submits that the cause for the above-mentioned delay in filing the appeal is due to the ill health of the Chartered Accountant with whom the appellant had entrusted all the documents for filing the appeal. The same has caused undue hardship to the appellant to find another Chartered Accountant and handing over of al/ documents related to filing the appeal.

The Appellant further submits that there have been no wilful delays or latches on its part for preferring an Appeal. The Appellant is of the bonafide belief that the impugned order issued by the Respondent is liable to be set aside for the grounds stated in the appeal docket submitted herewith.

It is humbly prayed that based upon the totality of the circumstances mentioned above, the learned CIT(Appeals) may be pleased to consider the prayer of the appellant in granting the condonation for delay of 311 days in appearing before your learned self forj ustice and equity. It is a trite position of law, crystallized by the Hon'b/e Supreme Court of India in Collector, Land acquisition Anantnag and another versus Mst. Katiji and others, reported in 1987 (28) E.L.T. 185 (S.C.) that refusal to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. The Hon'ble Bombay High Court in Vijay Vishin Meghani v. Dy. Commissioner of Income Tax reported in [2017] 86 taxmann.com 98 (Bombay) was pleased to condone a delay of 2984 days when the Assessee showed bonafide reasons for not preferring the Appeal before the Income Tax Appellate Tribunal.”

The Ld. CIT(A), however, rejected the appeals on the ground of limitation, without examining the submissions of the assessee on merits. In our considered view, reasonable opportunity was denied to the assessee for advancing his claim. We, therefore, deem it appropriate to restore the matter to the file of the Ld. CIT(A) for adjudication de novo on the issue of limitation, by adopting a lenient approach.

The Ld. DR argued but had not made any strong objection against the decision of the bench.

The assessee is directed to file an affidavit before the Ld. CIT(A) explaining the delay with sufficient cause. We make it clear that we have not expressed any opinion on the merits of the case, so as not to prejudice the proceedings before the Ld. CIT(A). Needless to add, the assessee shall be afforded a reasonable opportunity of being heard before the appellate order is passed. At the same time, the assessee is expected to be diligent and co-operative in the set-aside proceedings to facilitate expeditious disposal of the appeal.

ITA No. 615/Coch/2025

5. This appeal pertains to penalty order under section 271AAC(1) of the Act amounting to Rs.11,65,874/-. Since the corresponding quantum appeal has already been set aside to the file of the Ld. CIT(A) for adjudication de novo, we consider it appropriate to restore the present penalty appeal also to the file of the Ld. CIT(A). The Ld. CIT(A) shall adjudicate the penalty matter afresh, after deciding the quantum issues on merits, and thereafter pass a reasoned and speaking order in accordance with law.

6. In the result, the appeals of the assessee bearing **ITA Nos 614 & 615/Coch/2025** are allowed for statistical purpose.

Order pronounced in the open court on 30th October, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Cochin, Dated: 30th October, 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