

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 769/Coch/2025
Assessment Year: 2020-21**

Jojo Appellant
Kattalapeedika House, Mattathur, Thrissur
[PAN: BYCPJ5296A]

vs.

The Income Tax Officer, Ward-1(1), Thrissur Respondent

Assessee by: Shri Vibin K.K., CA
Revenue by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 26.11.2025
Date of Pronouncement: 21.11.2025

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 29.08.2025 for Assessment Year (AY) 2020-21.

2. Brief facts of the case are that appellant is an individual. No regular return of income under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) for AY 2020-21 was filed by the appellant. Based on the information that the appellant had sold immovable property for a consideration of Rs. 20,00,000/- the Assessment Unit of Income Tax Department (hereinafter called "the AO") formed an opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 of the Act was issued on 28.03.2024

after duly complying with the procedure laid down u/s. 148A of the Act. In response to the notice u/s. 148, the appellant filed return of income on 09.04.2024 declaring Nil income after claiming deduction u/s. 54 of the Act. Against the said return of income, the assessment was completed by the AO vide order dated 20.03.2025 passed u/s. 147 r.w.s. 144B of the Act at total income of Rs. 17,67,614/-. While doing so, the AO denied deduction u/s. 54 of the Act on the ground that the appellant had failed to file the return of income within the due date prescribed u/s. 139(1) of the Act and the details of construction of new house were not filed. Therefore, the AO, after allowing deduction to the extent of Rs. 1,00,000/- being the cost of land acquired for construction of new house, disallowed the claim for deduction in respect of balance amount.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO by holding that unutilised portion of the sale proceeds were not deposited under the Capital Gain Deposit Scheme before the due date for filing the return of income nor the appellant had filed the return of income within the due date prescribed u/s. 139(1) of the Act.

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

5. The learned counsel for the assessee submits that construction of house was completed on 29.09.2021 and the appellant could not file the return of income as he was under the bona fide belief that

income is below taxable limit, therefore, no return of income required to be filed. The appellant also placed reliance on the decision of the Hon'ble Madras High Court in the case of Venkata Dilip Kumar v. CIT [2019] 419 ITR 298.

6. On the other hand, learned Sr. DR opposed the above submissions and submits that the appellant neither filed the return of income nor deposited the unutilised portion of the sale proceeds of the property sold under the Capital Gain Deposit Scheme as prescribed under subsection (2) of section 54 of the Act. The appellant had not filed any proof of completion of construction of new house before the due date prescribed u/s. 139(1) of the Act.

7. I heard the rival contentions and perused the material available on record. The issue that arises for my consideration is whether the NFAC was justified in confirming the disallowance of claim for deduction u/s. 54 of the Act. Undisputedly, the appellant had sold the property for a consideration of Rs. 20,00,000/-. No return of income under the provisions of section 139(1) of the Act was filed by the appellant. However, in response to notice issues u/s. 148 the appellant had filed return of income disclosing Nil income after claiming deduction u/s. 54 of the Act. The material on record clearly indicates that the appellant had failed to discharge the onus of proving completion of construction of the house before the due date prescribed u/s. 139(1) of the Act nor he filed the proof of having deposited the unutilised portion of the sale proceeds of the property

under the Capital Gain Deposit Scheme. The appellant had only relied upon the valuation report which is extracted by the AO in pages 7 & 8 of the assessment order. On mere perusal of the said valuation report it would be clear that it is nowhere mentioned that construction of the house was completed before the due date for filing of return of income. It only gives valuation of the residential building situated in Survey No. 1503/3-1, Mattathur Village, Chalakudy Taluk, Thrissur as on 09.02.2024. Reliance placed by the appellant on the decision of the Hon'ble Madras High Court in the case of Venkata Dilip Kumar v. CIT [2019] 419 ITR 298. This decision has no application to the facts of the case, inasmuch as, there was no dispute in the said case about completion of the house property before the due date prescribed for filing return of income u/s. 139(1) of the Act. Thus I do not find any merit in the appeal filed by the appellant.

8. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 21st November, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 21st November, 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