

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHINBENCH "DB", COCHIN

**BEFORESHRI. INTURI RAMA RAO, ACCOUNTANT MEMBER AND
SHRI. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A No.653 and 654/COCH/2025
(Assessment Year: 2008-09 and 2018-19)**

Salim Mohammed Kabeer 4A, Heera Havens, Ulloor Medical College P.O, Thiruvananthapuram 695011, Kerala - 695011 PAN:ANBPK5027B	vs	Income Tax Officer, Ward 1(3), Trivandrum Ward-1 (3), Aaykar Bhavan, Thiruvananthapuram, Kerala - 695003
APPELLANT		RESPONDENT

Assessee by : Shri Suresh Kumar, C.A

Respondent by : Shri Leena Lal, (SR.AR.)

Date of hearing : 30/10/2025

Date of pronouncement : 13/11/2025

ORDER

Per Shri Anikesh Banerjee (JM):

Both the instant appeals of the assessee were filed 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 assessment year 2008-09 and 2018-19, date of order 22/07/2025. The impugned order were emanated from the order of the Income Tax Office ward 1(1),

Trivandrupassed u/s. 143(3) r.w.s 143(3) A, 143(3) B of the Act, order passed by National E Assessment Centre, Delhi dated 26.02.2001.

2. Both the appeals are related to penalty as well as quantum intwo different years. Both the appeals are taken together, heard together and disposed of by the common order. **ITA No. 653/COCH/2025** is taken as lead.

3. We have heard the rival submissions and perused the material available on record. It is observed that the present appeals pertain to Assessment Years 2008–09 and 2018–19. The Ld. CIT(A) passed a common order disposing of both the quantum and penalty appeals relating to the aforesaid assessment years.The Ld. AO, after completing the assessment under section 143(3) of the Act, initiated penalty proceedings under section 271(1)(c) of the Act and eventually levied a penalty of Rs.17,06,091/–. Aggrieved by the said penalty order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A), however, dismissed the appeal for non-prosecution and thereby upheld the penalty order passed by the Ld. AO. Being aggrieved the assessee filed an appeal before us.

4. During the appeal before us the Ld.AR submitted the **paper book** containing **pages of 1- 89**which is kept in record. The Ld.AR stated that the assessee was not allowed to submit the evidences before the Ld. CIT(A) though reasonable opportunity was denied.

5. The Ld.DR argued and stood in favour of the revenue authority.

6. In our considered view we find that Ld. CIT(A) upheld the penalty order of Ld.AO by an order of non-prosecution and the assessee was unable to submit the evidences and documents for argument before the Ld. CIT(A). Having considered the totality of facts and circumstances, we are of the view that the assessee has demonstrated reasonable cause for the non-submission of documents before the Ld. CIT(A). It is also evident that during the appellate proceedings, the assessee was not granted sufficient opportunity. Accordingly, in the interest of justice, we deem it appropriate to restore the matter to the file of the Ld. CIT(A). The assessee is directed to furnish all relevant documents and evidence, if any, before the Ld. CIT(A). The Ld. CIT(A) shall consider all such documents and evidence in accordance with law and decide the matter afresh after granting a reasonable opportunity of being heard to the assessee. We make it clear that we have not expressed any opinion on the merits of the case, so as not to prejudice the proceeding before the appellate authority. It is further directed that the assessee shall be diligent and fully cooperative in the set-aside proceedings to ensure expeditious disposal of the appeal. Accordingly, the matter is restored to the file of the Ld. CIT(A) for fresh adjudication.

ITA No. 654/COCH/2025

7. The facts and circumstances in the above appeal, ITA No. 653/COCH/2025 is identical to ITA No.654/COCH/2025, which we have already decided in favour of the assessee. Therefore, the decision arrived at above shall apply *mutatis mutandis* to the appeal ITA No. 654/COCH/2025 also and the appeal of the assessee is allowed for statistical purposes.

8. In the result, both appeals of the assessee bearing **ITA No. 653/COCH/2025** and **ITA No. 654/COCH/2025** are allowed statistical purposes.

Order pronounced on 13th day of November 2025 in accordance with Rule 34(4)
of the Income tax (Appellate Tribunal) Rules, 1963.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Mumbai,दिनांक/Dated: 13/11/2025
Disha Raut, Stenographer

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि.,/DR, ITAT,
COCHIN
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, COCHIN**