IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 5TH DAY OF JUNE 2026 / 15TH JYAISHTA, 1948

ITA NO. 51 OF 2026

AGAINST THE ORDER DATED 31.07.2025 IN ITA NO.787/COCH/2024 OF

INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH

APPELLANT/APPELLANT IN ITA/ASSESSEE:

MALLELIL INDUSTRIES PVT. LTD.
ATTACHAKKAL P.O., KONNI, PATHANAMTHITTA,
REPRESENTED BY ITS MANAGING DIRECTOR- MR. SREEDHARAN NAIR., PIN - 689691

SHRI.RAJA KANNAN
SHRI.M.GOPIKRISHNAN NAMBIAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SHRI.PAULOSE C. ABRAHAM
SHRI.VENKITESH M.J
SMT.VARSHA S. NAMBIAR
SMT.RINI ANNA KURIAN

RESPONDENT/RESPONDENT IN ITA/REVENUE:

PRINCIPAL COMMISSIONER OF INCOME TAX
PUBLIC LIBRARY BUILDING, LAL BAHADUR SHASTRI ROAD,
BAKER HILL, KOTTAYAM., PIN – 686001

SRI.JOSE JOSEPH - SC

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 05.06.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Devan Ramachandran, J.

The appellant challenges the impugned order of the learned Income Tax Appellate Tribunal (ITAT), Cochin Bench, because it has refused to accede to their request for condonation of delay of 676 days, in filing ITA No.787/COCH/2024; and has consequently dismissed the said appeal.

2. Smt.Rini Anna Kurian – appearing for the appellant, argued that the findings of the learned Tribunal - that the explanation of the delay is not correct or *bona fide* - are not tenable because her client has specifically averred the reasons for such in the affidavit in support of the application. She pointed out that her client was relying upon professional Auditing Firms, as also counsel; but had not been kept informed about the non filing of appeal against the order of the Commissioner of Appeals, even though it was received as early as on 24.08.2022. She showed us, as has also been reproduced by the learned Tribunal in paragraph 4 of the impugned order, that the specific averments in the application are also to the effect that, as soon as the appellant came to be aware that the appeal had not been filed, it

took necessary steps to do so, through a new tax consultant. She argued that these statements could not have been disbelieved because, it has also been further averred that the earlier tax auditors withdrew from the audit assignment, which also forced her client to engage a new firm of auditors for the financial year 2017-18.

3. Sri.Jose Joseph – learned standing counsel for the Department of Taxes, submitted that the averments of the appellant are so incredulous and it cannot be believed at all; and hence that the learned Tribunal cannot be blamed in having issued the impugned order. He prayed that this appeal be, therefore, dismissed.

4. We notice from the impugned order that the learned Tribunal has relied upon the judgment of the Hon'ble Supreme Court in **Guruswamy H. v. A.Krishnaiah Since Deceased By Lrs**. [2025 SCC OnLine SC 54]. We are fully aware that, in the said judgment, the Hon'ble Court has cautioned all Courts, including High Courts, from dealing with applications for condonation of delay in a casual manner, particularly when it involves large amounts of time.

5. That said, when an application seeking delay is

considered, the reasons stated in explanation will have to be scrutinized and insistently assessed.

6. The explanation offered by the appellant is that their earlier auditors had withdrawn from their assignment and that another Firm had to be engaged. The averments are not vague, but with specifics regarding the names of the Firms, as also the nature of the problem that they faced. Further, they have come out clean, saying that they received the order of the Commissioner on 24.08.2022 and that they *bona fide* believed that their earlier Auditors would have filed appeal against it; but subsequently, to be aware that it was not done.

7. Undoubtedly, the explanation above cannot be substantiated with documentary materials and the appellant relies solely upon their averments in corroboration.

8. The learned Tribunal cannot be found in error, in having not accepted the explanation for the reason that it has not been corroborated; but the finding that they are not *bona fide* does not fully appeal to us since, as said above, the appellant has provided specific details of their former and present Auditors, thus probabalising their case.

9. In such perspective, we are of the opinion that, even

within the rigour of the declarations in **Guruswamy H.** (supra), this Court will be justified in finding in favour of the appellant, particularly since the statutory appeal they filed before the learned ITAT is one at the first instance before a judicial forum.

10. In such circumstances, we allow this appeal and set aside Annexure H order; and consequently, allow the plea for condonation of delay preferred by the appellant.

Resultantly, the learned ITAT will proceed to consider ITA No.787/COCH/2024 on its merits, after affording necessary opportunity to both sides, as expeditiously as is possible.

Sd/- DEVAN RAMACHANDRAN
JUDGE

Sd/- BASANT BALAJI
JUDGE

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APPENDIX OF ITA NO. 51 OF 2026

PETITIONER ANNEXURES

Annexure A	**TRUE COPY OF THE ASSESSMENT ORDER DATED 30.12.2016 PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX- CIRCLE,-1, THIRUVALLA FOR THE A.Y 2015-16**
Annexure B	**TRUE COPY OF THE CONSEQUENTIAL ORDER OF ASSESSMENT DATED 23.12.2019 PASSED BY ASSISTANT COMMISSIONER OF INCOME TAX-CIRCLE,-1, THIRUVALLA FOR A.Y 2015-16**
Annexure C	**TRUE COPY OF THE PENALTY NOTICE DATED 23.12.2019 ISSUED BY THE ACIT, CIRCLE, THIRUVALLA. FOR A.Y 2015-16**
Annexure D	**TRUE COPY OF THE PENALTY ORDER DATED 12.01.2022 ISSUED BY THE ADDITIONAL / JOINT / DEPUTY / ASSISTANT COMMISSIONER OF INCOME TAX INCOME-TAX OFFICER, NATIONAL FACELESS ASSESSMENT CENTRE, DELHI FOR A.Y 2015-16**
Annexure E	**TRUE COPY OF THE ORDER DATED 24.08.2022 PASSED BY THE CIT (APPEALS), NFAC, DELHI**
Annexure F	**TRUE COPY OF THE APPEAL MEMORANDUM (WITHOUT ANNEXURES) DATED 02.09.2024 FILED BY THE APPELLANT BEFORE THE ITAT, COCHIN**
Annexure G	**TRUE COPY OF THE AFFIDAVIT DATED 29.08.2024 FILED BEFORE THE ITAT, COCHIN, EXPLAINING THE REASONS FOR THE DELAY IN FILING ANNEXURE-F APPEAL**
Annexure H	**CERTIFIED COPY OF THE ORDER DATED 31.07.2025 PASSED BY THE ITAT. COCHIN IN ITA NO. 787/COCH/2024 FOR THE A.Y 2015-16**