



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 21<sup>ST</sup> DAY OF NOVEMBER 2025 / 30TH KARTHIKA, 1947

WP(C) NO. 43816 OF 2025

PETITIONER:

THEKKEE CHERUPILLIL SARADA,  
AGED 88 YEARS  
37/3826, CHERUPILLIL HOUSE,  
CHERUPILLIL ROAD, KALOOR,  
ERNAKULAM, KERALA, PIN - 682017

BY ADVS.  
SMT.BINISHA BABY  
SHRI.ARAVIND SREEKUMAR  
SMT.SARITHA K.S.  
SHRI.ARAVIND RAJAGOPALAN MENON  
SHRI.ANIL D. NAIR (SR.)

RESPONDENTS:

- 1 INCOME TAX OFFICER,  
NON-CORP WARD 1(4),  
CENTRAL REVENUE BUILDING,  
I. S. PRESS ROAD, KERALA, PIN - 682018
- 2 COMMISSIONER OF INCOME TAX (APPEALS),  
NATIONAL FACELESS APPEAL CENTRE (NFAC),  
INCOME TAX DEPARTMENT, NEW DELHI, PIN - 110001

OTHER PRESENT:

SHRI.P.R.AJITH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 21.11.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



**J U D G M E N T**

This writ petition is filed by the petitioner, who is an assessee under the Income Tax Act, being aggrieved by Ext.P6 order passed by the 2<sup>nd</sup> respondent, in the appeal filed by the petitioner as against Ext.P2 assessment order in the year 2017-2018. As per Ext.P6, the said appeal was rejected solely on the ground that the petitioner failed to respond to the notices and appear before the appellate authority for hearing. This writ petition is submitted in such circumstances.

2. I have heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondents.

3. The main contention raised by the petitioner is that, as far as Ext.P6 order is concerned, the same is not sustainable in law, in view of the fact that, the appeal was dismissed without considering the merits of the contentions. It is pointed out that, such course of action from the part of the 1<sup>st</sup> appellate authority is against the statutory stipulations contained in Section 250 (6) of the Income Tax Act.



4. After going through the contents of Ext.P6, and the statutory stipulations contained in Section 250 (6), I find merit in the said submission. This is because, subsection (6) of Section 250 of the Act specifically stipulates that, the appellate authority shall state the points for determination and the decision thereon in the order. The points of determination referred to in subsection (6) of Section 250 of the Act can only be the points of determination arise from the grounds raised in the appeal and under no circumstances, the absence of the petitioner at the time when the appeal was taken up for consideration can be the point for determination arising in the appeal. Moreover, none of the provisions in Section 250 of the Act permit the appellate authority to reject the appeal on the ground of non-appearance of the appellant, without going into the merits of the case. Thus, in the light of the specific stipulation contained in subsection (6) of Section 250 of the Act, that mandates that the order in appeal should contain the points of determination and the decision thereon, any order without reference to the such points of



determination and the decision thereon, can only be treated as unsustainable in law. On going through Ext.P6 it can be seen that, there is no finding in the said order on merits and the appeal was rejected solely because of the absence of the petitioner before the appellate forum, when the appeal was taken for consideration. In such circumstance, the matter requires interference.

Accordingly, the writ petition is disposed of, quashing Ext.P6, with a direction to the 2<sup>nd</sup> respondent to reconsider the appeal submitted by the petitioner and to pass fresh orders on merits after providing to the petitioner, a reasonable opportunity of being heard. This shall be done as expeditiously as possible.

**Sd/-**

**ZIYAD RAHMAN A.A.**

**JUDGE**

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APPENDIX OF WP(C) 43816/2025

**PETITIONER EXHIBITS :**

<b>EXHIBIT P1</b>	<b>TRUE COPY OF THE ACKNOWLEDGMENT OF THE INCOME TAX RETURN</b>
<b>EXHIBIT P2</b>	<b>TRUE COPY OF THE ASSESSMENT ORDER DATED 30.10.2019 ISSUED BY THE 1ST RESPONDENT</b>
<b>EXHIBIT P3</b>	<b>TRUE COPY OF THE APPEAL MEMORANDUM IN FORM 35 DATED 15.11.2019 FILED BEFORE THE 2NDRESPONDENT</b>
<b>EXHIBIT P3(A)</b>	<b>TRUE COPY OF THE ACKNOWLEDGEMENT OF THE APPEAL</b>
<b>EXHIBIT P4</b>	<b>TRUE COPY OF THE APPLICATION UNDER SECTION 220(6) FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 18.11.2019</b>
<b>EXHIBIT P5</b>	<b>TRUE COPY OF THE CBDT E-RECEIPT EVIDENCING PAYMENT OF 20% OF THE DISPUTED TAX AMOUNT, DATED 03.12.2019</b>
<b>EXHIBIT P6</b>	<b>TRUE COPY OF THE ORDER UNDER SECTION 250 DATED 26.05.2025, PASSED BY THE 2ND RESPONDENT DISMISSING EXHIBIT P3 APPEAL</b>

**// True Copy // PA To Judge**