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WP(C) NO. 11709 OF 2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 30<sup>TH</sup> DAY OF MAY 2025 / 9TH JYAISHTA, 1947

WP(C) NO. 11709 OF 2023

**PETITIONER:**

ANANDAN N.,  
AGED 64 YEARS  
S/O. NARAYANAN, VARIATHARA PURAIDOM,  
A.N PURAM, ALAPPUZHA- 688011

BY ADV SMT.SANJANA R.NAIR

**RESPONDENTS:**

- 1 THE COMMISSIONER OF INCOME TAX (APPEALS),  
NATIONAL FACELESS APPEAL CENTRE  
NEW DELHI - 110001
- 2 PRINCIPAL COMMISSIONER OF INCOME TAX,  
1ST FLOOR, INCOME TAX OFFICE,  
PUBLIC LIBRARY BUILDING, KOTTAYAM - 686001
- 3 INCOME TAX OFFICER,  
WARD 1 &TPS CCSB RD, CHUNGAM,  
ALAPPUZHA - 688011



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BY ADV  
SHRI. JOSE JOSEPH, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY  
HEARD ON 30.05.2025, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:



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### **JUDGMENT**

The petitioner is aggrieved by Ext.P1 order passed by the 1<sup>st</sup> respondent under Section 250 of the Income Tax Act, 1961, by which the appeal submitted by the petitioner was rejected for nonappearance of the petitioner.

2. The facts that led to the filing of this writ petition are as follows: The petitioner was an employee ICICI Bank, who took voluntary retirement during the assessment year 2004-05. As part of the benefits of retirement scheme, he received a compensation of Rs.4,52,814/-. He submitted return of income for the said assessment year claiming the relief under Section 89(1) amounting to Rs.24,353/-. Subsequently he submitted a rectification application, seeking exemption under Section 10(10C) on retirement compensation, which was turned down by the assessing officer. Against the same, a revision petition was submitted by the petitioner before the 2<sup>nd</sup> respondent, which was rejected, relegating



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the petitioner to invoke the appellate remedies. Accordingly, the petitioner submitted an appeal before the 1<sup>st</sup> respondent, which culminated in Ext.P1 by which the appeal was dismissed. According to the petitioner, Ext.P1 is not an order passed in compliance of the statutory requirements stipulated under Section 250(6) of the Income Tax Act, 1961, which requires an order stating the points for determination of the decision thereon and the reasons for the decision are to be mentioned. This writ petition is submitted by the petitioner in such circumstances.

3. I have heard Sri.Sanjana R. Nair, learned Counsel for the petitioner and Sri.Jose Joseph, learned Standing Counsel for the respondents.

4. The specific challenge raised by the petitioner is on the ground that, the impugned order does not conform to the statutory requirements contemplated under the provisions of the Income Tax Act. On the other hand, the learned Standing Counsel would submit



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with specific reference to the contents of Ext.P1 that, what prompted the 1<sup>st</sup> respondent to reject the appeal, was the non-appearance of the petitioner despite repeated opportunities. The learned Standing Counsel for the respondents brought the attention of this Court to the details of the notices issued and the hearings proposed, on various dates, which are extracted in paragraph 5 of Ext.P1 order. Therefore, it was pointed out that, it was in those circumstances, the decision was taken by the 1<sup>st</sup> respondent to reject the appeal, after arriving at a specific finding that, the petitioner is not interested in prosecuting the matter. It is also pointed out that the 1<sup>st</sup> respondent, while arriving at such a decision, followed various judicial pronouncements, to justify his stand. Therefore, according to the learned Standing Counsel, the mandate under Subsection (6) of Section 250, was complied with, as the ultimate decision taken by the 1<sup>st</sup> respondent was supported by the reasons, which are clearly explained in the impugned order.



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5. However, the crucial aspect to be noticed is that, even though in Ext.P1 order, reasons are mentioned for rejecting the appeal, those reasons are in respect of the non-appearance of the petitioner, for hearing on various dates. In other words, none of the reasons which formed the basis of the rejection of the appeal were related to the merits of the contentions raised by the petitioner in the appeal. When going through the statutory stipulations contained in Section 250(6), it is to be noted that, the said provision imposes an obligation upon the appellate authority that, while disposing of the appeal, the order shall be in writing and shall state points for determination, the decision thereon and reason for the decision. The specific contention raised by the learned Counsel for the petitioner is focusing on the expression “points for determination”, which according to the learned Counsel for the petitioner, would lead to the points that arise touching upon the merits of the case, as reflected in the memorandum of appeal.



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6. After carefully going through the statutory provision, I find merits in the said submission. Evidently, going by Subsection 6 of Section 250, no other meaning can be assigned to the words “points for determination” as it obviously leads to the question that arises for consideration based on the contentions raised in the appeal. Therefore, it was obligatory on the part of the appellate authority to refer to the points raised in the appeal, and to determine the same by supplying reasons for such determination.

7. There is yet another aspect, which prompted this Court to take such a view. On going through Section 250 of the Act, which deals with the procedure in appeal, there is no provision for rejecting an appeal for non appearance of the appellant. Therefore, in the absence of any such provision, irrespective of the question the appellant had appeared or not, the appellate authority has to take decision by strictly following the mandate contemplated under Section 250(6) of the Income Tax Act, 1961, which can only be a



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decision answering the points raised in the appeal. Therefore, I am of the view that, Ext.P1 order cannot be treated as an order passed in tune with the statutory requirements and therefore, it requires reconsideration.

In such circumstances, this writ petition is disposed of, quashing Ext.P1, with a direction to the 1<sup>st</sup> respondent to reconsider the appeal, after giving a reasonable opportunity of being heard to the petitioner. The same shall be done within a period of three months from the date of receipt of a copy of this judgment.

**Sd/-  
ZIYAD RAHMAN A.A.  
JUDGE**

SCS





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**APPENDIX OF WP(C) 11709/2023**

**PETITIONER EXHIBITS**

<b>Exhibit-P1</b>	<b>TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 27/06/2022</b>
<b>Exhibit-P2</b>	<b>TRUE COPY OF THE JUDGEMENT IN ITA NO 2336/2013 DATED 25.04.2016</b>