

आयकर अपीलीय अधिकरण, कोचीन पीठ, कोचीन में।
IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

माननीय श्री सतबीर सिंह गोदारा, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SATBEER SINGH GODARA, J.M
AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, A.M

आयकर अपील सं./ ITA No.287/Coch/2021
(निर्धारण वर्ष / Assessment Year: 2001-02)

Preetha S. Nair Prop: Nut Products Company, Kochupilammoodu, Kollam-691 001.	बनाम / Vs.	ACIT Circle-1, Kollam.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. ABDPN-1379-H		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T.V. Hariharan (CA) – Ld. A.R
प्रत्यर्थी की ओरसे/ Respondent by	:	Smt.J.M. Jamuna Devi (Addl.CIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	10-11-2022
घोषणा की तारीख / Date of Pronouncement	:	30-11-2022

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2001-02 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 10-11-2021 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 147 of the Act on 02-09-2008. The assessee assails the addition on legal grounds as well as on merits.

2. From the assessment records, it emerges that the assessee was assessed u/s 143(3) on 01.03.2004. However, the case was reopened and notice u/s 148 was issued on 17.03.2008 which is beyond 4 years from end of relevant assessment year. The case was reopened to disallow 90% of processing charges while computing deduction u/s 80HHC. Upon computation, the eligible profits were found to be loss and accordingly, deduction u/s 80HHC was denied to the assessee.

3. During appellate proceedings, the assessee assailed reopening on the ground that the reopening was on the basis of subsequent decision of Hon'ble Supreme Court which is impermissible. The assessee also assailed the assessment on merits. However, rejecting all the pleas of the assessee, Ld. CIT(A) confirmed the action of Ld. AO against which the assessee is in further appeal before us.

4. The undisputed position that could be culled out is that the assessee was subjected to regular scrutiny assessment proceedings u/s 143(3). However, the case was reopened beyond 4 years based on subsequent decision by Hon'ble Supreme Court. However, in terms of requirements of proviso to Sec.147, there is no allegation of failure on the part of the assessee to make true and full disclosure of all material facts which were necessary for framing the assessment. The review of order based on subsequent decision is not permissible. Therefore, we quash the reassessment proceedings. The assessee succeeds on legal ground which renders ground on merits as infructuous.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 30th November, 2022.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

दिनांक / Dated : 30-11-2022
EDN/-

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC, Delhi*
4. *The CIT -*
5. *The DR, ITAT, Cochin*
6. *Guard File*