

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.123/Coch/2020**
(निर्धारण वर्ष / **Assessment Year: 2012-13**)

Smt. Annamma Abraham Kannothara Buildings, Kanjikuzhy, Kottayam.	बनाम / Vs.	ITO Ward-1, Kottayam.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. ADUPA-1966-C		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	None
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. Aggrieved by confirmation of certain additions for Assessment Year (AY) 2012-13 in an order passed by learned Commissioner of Income Tax, (Appeals), Kottayam [CIT(A)] on dated 30-10-2019, the assessee is in further appeal before us. The registry has noted a delay of 44 days which stand condoned considering the period of delay. At the time of hearing, none appeared for assessee and accordingly, the

hearing was proceeded with the able assistance of Ld. Sr. DR who pleaded for dismissal of the appeal.

2. Upon perusal of assessment order dated 27.03.2015, it could be seen that the assessee is authorized dealer of Mahindra Two-Wheeler products under proprietorship concern namely M.s Pulimoottil Automobiles. It was noted that an amount of Rs.10.60 Lacs was due against one sundry creditor i.e., M/s Kerala Publicity Bureau. However, the party confirmed that there was no outstanding against the assessee. Accordingly, the same was added to the income of the assessee. Similarly, the assessee reflected balance of Rs.76.91 Lacs against M/s Kinetic Motor Company. The assessee, in the opinion of Ld. AO, failed to produce convincing evidences to establish the authenticity of such a liability and accordingly, the same was also added to the income of the assessee.

3. During appellate proceedings, a remand report was called from Ld. AO. The Ld. AO submitted that the assessee did not dispute the addition of Rs.10.60 Lacs standing against M/s Kerala Publicity Bureau and amount to the extent of Rs.23.52 Lacs standing against M/s Kinetic Motor Company. The addition of balance amount of Rs.53.39 Lacs was also confirmed since the assessee transferred the income assessed during this year to her capital account in subsequent years which confirm the fact that there was cessation of liability. The remand report was also confronted to the assessee. Finally, the appeal was dismissed against which the assessee is in further appeal before us.

4. From the facts, it emerges that the settlement of sundry creditors in subsequent years would be a vital fact to determine the fate of impugned additions. It is the plea of the assessee before Ld. CIT(A)

that the liabilities were still outstanding and the same were payable by the assessee and therefore, the same could not be considered as the case of cessation of trading liability. Therefore, we set aside the impugned order and restore the appeal back to the file of Ld. CIT(A) for fresh adjudication with a direction to the assessee to prove the fact that the liabilities were subsisting and the same were settled in subsequent years.

5. The appeal stand allowed for statistical purposes.

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*