

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Sanjay Arora, Accountant Member and
Shri Manohohan Das, Judicial Member

ITA No. 323/Coch/2023
SA No. 65/Coch/2023
(Assessment Year: 2019-20)

Thazhayil Nidhi Ltd. Building No. 6/4 Thazhayil Building Elanthoor Pathanamthitta 689643 (Appellant)	vs.	Income Tax Officer (TDS) Alappuzha [PAN:TVDTO2397D] (Respondent)
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Appellant by:	Shri Abhijith Satheesh, CA
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	25.01.2024
Date of Pronouncement:	25.01.2024

ORDER

Per: Sanjay Arora, AM

This is an Appeal by the Assessee agitating the dismissal of it's appeal contesting the assessment of it's tax liability *qua* tax deductible at source for fy 2018-19, relevant to Assessment Year 2019-20, vide order under sections 201/201(1A) of the Income Tax Act, 1961 (the Act) dated 31.08s.2022, by the Commissioner of Income Tax (Appeals), Income Tax Department [CIT(A)], vide his order dated 09.03.2023. The assessee has also filed a stay petition *qua* it's captioned appeal.

2. The assessee's only grievance before us, per the arguments advanced by it's learned counsel, Shri Abhijith, is the absence of opportunity of hearing thereto by the first appellate authority in passing the impugned order. Towards this, on being required to by the Bench, he would take us meticulously through the impugned order, which is, we afraid, *sub silentio* in the matter. Though Shri Das, the Id. CIT-DR,

would make reference to the show cause notice dated 04.02.2022, referred to at page 17 of the impugned order, the same, as apparent, is by the Assessing Officer (AO), and responded to by the assessee, represented through the same counsel.

3. We have heard the parties, and perused the material on record.

3.1 Provision of a reasonable opportunity of hearing is a principle of natural justice, integral to judicial determination, also enshrined in s. 250(1) of the Act. An order in violation thereof does not meet the requirement of law, as indeed of justice. The matter shall require travelling back to the state where the irregularity intervened. We, accordingly, setting aside the impugned order, restore the appeal to the file of the Id. CIT(A) for a decision afresh on merits after allowing due opportunity of hearing to the parties before him, per a speaking order, taking into account their arguments /contentions raised before him and, needless to add, in accordance with law.

3.2 Before parting with this order, we may clarify that the sole ground raised before us does not appear in the 'Grounds of Appeal' forming part of Form 36, the memorandum of appeal before the Tribunal, duly perused during hearing. The same was, nevertheless, admitted orally in pursuance to r.11 of the Income Tax (Appellate Tribunal) Rules, 1963, and the parties heard on that basis.

3.3 We decide accordingly. The assessee's stay application, in view of our having decided the appeal, becomes infructuous.

4. In the result, the assessee's appeal is allowed for statistical purposes, and its stay application, dismissed.

Order pronounced in the open court on the conclusion of the hearing.

Sd/-
(Manomohan Das)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Cochin, Dated: January 25, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The CIT- DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin