

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH: COCHIN
(By virtual hearing)**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.611/Coch/2023
Assessment Year: 2014-15

V.S. Abdul Salam Vadakkeveettil House Vachakal Edavanakkad Ernakulam 682 502 Kerala PAN NO : AHQPA7919P	Vs.	ITO Non-Corporate Ward-2(4) & TPS Kochi
APPELLANT		RESPONDENT

SP No.135/Coch/2023 (Arising out of ITA No.611/Coch/2023)
Assessment Year: 2014-15

V.S. Abdul Salam Vadakkeveettil House Vachakal Edavanakkad Ernakulam 682 502 Kerala PAN NO : AHQPA7919P	Vs.	ITO Non-Corporate Ward-2(4) & TPS Kochi
APPELLANT		RESPONDENT

Appellant by	:	Sri Alan Dev, A.R.
Respondent by	:	Sri Sanjit Kumar Das, D.R.



Date of Hearing	:	04.07.2024
Date of Pronouncement	:	04.07.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against the order of NFAC dated 30.6.2023 for the assessment year 2014-15 passed u/s 250 of the Income Tax Act, 1961 (in short "The Act").

2. Originally the stay petition was posted before this bench on 10.6.2024. The Bench passed order sheet as follows:

SA 135/COCH/2023 (Assessment Year: 2014-15)	
In the case of V S ABDUL SALAM vs. THE ITO NON CORPORATE WARD 2(4) & TFS	
Bench: DB 4 10-Jun-2024 (Monday)	Assessee represented by: Sri. Alan Dev, Adv Department represented by: Shri.Sanjit Kumar Das,CIT DR
	At the time of hearing the Ld. AR requested to fix the main appeal out of turn hearing and the impugned SP can be fixed along with that. The Ld. DR did not raise any objection. Accordingly, the registry is directed to fix the the main appeal out of turn for hearing along with SP and update the next date of hearing to both the parties. Now the matter is adjourned to 04/07/2024.
	 SOUNDARARAJAN K. JUDICIAL MEMBER
	 WASEEM AHMED ACCOUNTANT MEMBER

2.1 However, this appeal No. ITA 611/Coch/2023 is not listed for hearing on 4.7.2024. In the cause list circulated by the bench, only the stay petition is listed for hearing for today.

2.2 Before us, ld. A.R. submitted that the appeal is already listed for hearing and the same may be taken up. Acceding to the request of the Counsel, we taken up the appeal for hearing.

3. The only ground in this appeal is with regard to sustaining addition of Rs.26.92 lakhs as unexplained investment.

4. Facts of the the assessee is an individual assessee and had filed his returns for the Assessment Year 2014-15 on 28.12.2014 declaring a total income of Rs.4,48,250/-. The case was selected for limited scrutiny through CASS and the issue identified is 'Large investment in property compared to total income'. The issue flagged by CASS scrutiny relates to a purchase of land to the extent of 10.118 acres with a shed in Sy. No. B-1 119/6 and B-1250/27 for a consideration of Rs.87.90 lakhs and incurred registration expenses of Rs.4.40 lakhs (total of Rs.92,30,000/-) vide two deeds Nos. 2276 & 2277/2013 dated 25.11.2013 by the assessee along with his brother and sister.

4.1 At the time of hearing, the assessee explained before the assessing officer the source of investment and details were provided and the same is extracted in the assessment order itself. The assessee along with his brother and sister raised loans from Bank of India, Catholic Syrian Bank and other Zo-operative Societies for the purpose of purchase of land. The Assessing authority has not gone into the merits of the sources of investment produced by the assessee but made an assessment by determining the proportionate share of the assessee and deducting the loan obtained in the name of the assessee alone. The assessee had also utilised loans obtained in the name of his brother and sister for the purchase of the land which is not considered by the assessing authority. The assessee had obtained loan from Bank of India in the name of partnership firm "Jordan Ice Factory" in which assessee along with his brother and sister are partners and utilised the same towards the purchase of the land which is also not considered by the assessing authority. The assessing authority had also not verified the details of bank accounts held in the name of the assessee and his brother and sister and has also verified the withdrawals from the accounts. The assessee along with his brother Sadiq V.S. and his sister Seena Nazeer obtained loans from Banks and Co-operative Societies and these were not considered as source for the purchase of land. Instead, the Assessing Authority only considered the assessee's loan and his wife as cost of investment and arrived balance as unexplained investment. u/s 69 of the Act. The assessing Officer had completely ignored the withdrawals from the accounts of brother and sister of the assessee.

4.2 The assessee had also obtained loan from Bank of India in the name of the partnership firm 'Jordan Ice Factory' in which the assessee along with his brother and sister are partners and utilised the same towards purchase of the land, which was also not considered by the assessing officer. The details of the source of income for the purchase of the land is as follows:-

Sl.No	Name of Bank	Amount	Name of A/c holder	Date of withdrawal
1	Bank of India	25,00,000	Jordan Ice Factory	14.11.2013
2	CSB	10,00,000	-Do-	25.11.2013
3	Bank of India Pallippuram	19,65,000	Seena Industries	14.11.2013
4	CSB Pallippuram	10,00,000	-Do-	25.11.2013
5	Bank of India Pallippuram	4,00,000	Sunitha Salam	21.12.2012
6	Bank of India Pallippuram	5,00,000	Sunitha Salam	02.01.2013
7	Bank of India Pallippuram	5,00,000	Sunitha Salam	04.03.2013
8	Bank of India Pallippuram Paravur Vadakkekara	4,00,000	Sunitha Salam	04.05.2013
9	CoOp	5,00,000	Assessee	23.11.2013
10	Vadakkekara SCB	5,00,000	Seena Nazeer	23.11.2013
	Total	92,65,000		

4.3 According to Id. A.R., it was clearly explained before the Hon'ble NFAC, the Hon'ble NFAC has only reduced the unexplained investment to Rs.26.92 lakhs as against Rs. 31.92 lakhs added by the assessing officer after giving credit for the Rs.5 lakhs contributed by the assessee's wife. Against this assessee is in appeal before us.

5. In this case, addition has been made by Id. AO at Rs.31.92 lakhs on account of unexplained investment in the property situated at Sy.No.B-1,117/6 & B-1-250/27 for a consideration of Rs.87.9 lakhs and incurred Rs.4.4 lakhs as registration charges totalling of Rs.92.30 lakhs, Before Id. AO, assessee was not able to explain the investment of Rs.31.92 lakhs. However, before Id. CIT(A), assessee explained the investment to the tune of Rs.5 lakhs as received from assessee's wife Sunita and assessee failed to explain the balance amount of Rs.26.92 lakhs. Against this assessee is in appeal before us.

6. We have heard the rival submissions and perused the materials available on record. The assessee stated that the entire amount has been received by assessee through banking channels and assessee explained the source of investment as follows:

Sources of Investments					
Sr.no.	Name of the Bank	Name of Account holder	Date of Withdrawal	Amount	
1	Bank of India	Jordan Ice factory	23.11.2013	10,16,000	
2.	Bank of India	Seena Ice industries	23.11.2013	19,65,000	
3.	Parur Vadakkakara services	V.S. Salam	23.11.2013	5,00,000	
4.	Parur Vadakkakara services	Sunitha Salam w/o Salam	23.11.2013	5,00,000	
5.	Parur Vadakkakara services	Seena Nazeer	23.11.2013	5,00,000	
6.	Parur Vadakkakara services	Sadique	23.11.2013	5,00,000	
7.	Parur Vadakkakara services	Sadique	24.09.2013	20,00,000	Advance payment
8.	Parur Vadakkakara services	Sadique	25.09.2013	25,00,000	Advance payment

6.1 It was submitted that the assessee is in a position to explain the entire amount of Rs.29.62 lakhs, if an opportunity of hearing is given to the assessee before Id. AO. We accede to the request of the assessee and remit this issue of addition of Rs.26.92 lakhs to the file of Id. AO with a direction to the assessee to prove all the ingredients of section 68 of the Act. This issue is remitted to the file of Id. AO for fresh consideration.

7. In the result, appeal of the assessee is partly allowed for statistical purposes.

8. Since the appeal of the assessee is remitted to file of ld. AO, the stay petition filed by the assessee becomes infructuous and dismissed.

9. In the result, stay petition filed by the assessee is dismissed.
Order pronounced in the open court on 4th July, 2024

Sd/-
(Soundararajan K.)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 4th July, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.