

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

Before Shri Satbeer Singh Godara, Judicial Member and  
Shri Amarjit Singh, Judicial Member

**ITA Nos. 01-03/Coch/2023 : AYs: - 2011-12**  
**ITA Nos. 04-06/Coch/2023 : AYs: - 2012-13**  
**ITA Nos. 07-09/Coch/2023 : AYs: - 2013-14**  
**ITA Nos. 10-12/Coch/2023 : AYs: - 2014-15**  
**ITA Nos. 13-15/Coch/2023 : AYs: - 2015-16**  
**ITA Nos. 17-18/Coch/2023 : AYs: - 2017-18**

Kadungampampil Manual George Joseph Kadungampampil House Cheriakadavu, Chellanam Ernakulam 682008 [PAN: ABIPJ7127N]	vs.	The Income Tax Officer Non Corporate Ward 2(4) & TPS, Kochi
(Appellant)		(Respondent)

Appellant by:	Ms. Lakshmi, CA
Respondent by:	Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing:	22.08.2024
Date of Pronouncement:	22.08.2024

**ORDER**

Per Bench

The instant batch of eighteen appeals in ITA Nos. 1 to 18/Coch/2023 pertain to a single assessee herein i.e. Shri Kadungampampil Manual George Joseph. All other related details stand tabulated hereunder: -

Sr. No.	ITA No.	AY	DIN & Order No. / Dated 14/17.10.2022	Proceedings under section
1	01/Coch/2023	2011-12	ITBA/NFAC/S/250/2022-23/1046309923(1)	143(3) r.w.s. 147
2	02/Coch/2023	2011-12	ITBA/NFAC/S/250/2022-23/1046310653(1)	271(1)(c)

3	03/Coch/2023	2011-12	ITBA/NFAC/S/250/2022-23/1046310960(1)	271B
4	04/Coch/2023	2012-13	ITBA/NFAC/S/250/2022-23/1046314131(1)	143(3) r.w.s. 147
5	05/Coch/2023	2012-13	ITBA/NFAC/S/250/2022-23/1046314405(1)	271(1)(c)
6	06/Coch/2023	2012-13	ITBA/NFAC/S/250/2022-23/1046314619(1)	271B
7	07/Coch/2023	2013-14	ITBA/NFAC/S/250/2022-23/1046315207(1)	143(3) r.w.s. 147
8	08/Coch/2023	2013-14	ITBA/NFAC/S/250/2022-23/1046315519(1)	271(1)(c)
9	09/Coch/2023	2013-14	ITBA/NFAC/S/250/2022-23/1046315749(1)	271B
10	10/Coch/2023	2014-15	ITBA/NFAC/S/250/2022-23/1046316129(1)	143(3) r.w.s. 147
11	11/Coch/2023	2014-15	ITBA/NFAC/S/250/2022-23/1046316784(1)	271B
12	12/Coch/2023	2014-15	ITBA/NFAC/S/250/2022-23/10463165593(1)	271(1)(c)
13	13/Coch/2023	2015-16	ITBA/NFAC/S/250/2022-23/1046317013(1)	143(3) r.w.s. 147
14	14/Coch/2023	2015-16	ITBA/NFAC/S/250/2022-23/1046317423(1)	271B
15	15/Coch/2023	2015-16	ITBA/NFAC/S/250/2022-23/1046317203(1)	271(1)(c)
16	16/Coch/2023	2017-18	ITBA/NFAC/S/250/2022-23/1046338750(1)	271AAC1
17	17/Coch/2023	2017-18	ITBA/NFAC/S/250/2022-23/1046339605(1)	270
18	18/Coch/2023	2017-18	ITBA/NFAC/S/250/2022-23/1046338190(1)	143(3)

Heard both parties at length. Case files perused.

2. It emerges during the course of hearing that all these assessee's appeals arise from the learned lower authorities activities, i.e. reassessment, section 143(3) r.w.s. 147 assessment(s), 271(1)(c), 271AAA, 271B penalty, etc. This is for the precise reason that there was a search carried out at assessee's business premises who is engaged in LPG distribution business. Both the counsel(s) fairly submit before us that the first substantial issue that invites our apt adjudication is estimation of

assessee's net profits @2.4% by the Assessing Officer as upheld in CIT(A)'s lower appeal discussion.

3. The Revenue's vehement contentions before us are that not only the assessee had failed to substantiate his net profit @0.7% but also the learned Assessing Officer had drawn comparables in the same line of business to arrive at the impugned rate of 2.4% in question.

4. The assessee's case on the other hand is that rejection of book results form a condition precedent for the departmental authorities before such a course of action of estimation of net profit is finalised.

5. We find no merit in assessee's argument in principle as the learned Assessing Officer's detailed discussion in the respective assessment/reassessment have given elaborate reasoning for the purpose of rejecting assessee's net profit in question. We wish to emphasise here that the Assessing Officer impugned estimation has further considered the comparable cases as well in the very line of business. We thus uphold the impugned estimation @ 2.4% in all if assessee's quantum cases.

6. We next note that the assessee's quantum appeal in 2017-18 involves unexplained cash deposit addition of Rs.90,00,000/- made during the demonitisation period. The assessee all along claims the source of the impugned cash deposit as attributable to his business of LPG dealership and cash receipts derived therefrom. Learned counsel seeks to buttress the point that once both the lower authorities have accepted his business sales in principle, the impugned cash deposits ought not to be treated as unexplained even if made during demonitisation.

7. We find in this factual backdrop that neither parties arguments against and in support of the impugned addition deserves to be accepted in the entirety. This is for the precise reason that not only the lower authorities have given credit to assessee's

sales in LPG dealership business but also they have not taken into account the latter's sales qua the estimation of profit @2.4%. The assessee has also failed to reconcile all of his business sales vis-a-vis the impugned cash deposits to the satisfaction of the lower authorities. Our attention is further invited to the assessment findings in 2017-18 declaring a sum of Rs.50,00,000/- . Faced with this situation, we are of the considered view that a lump sum relief of Rs. 40,00,000/- in the given facts and circumstances of the case would meet the ends of justice in assessee's case. Necessary computation shall follow as per law.

8. We now proceed to deal with the consequential section 271B and section 271(1)(c) penalties for concealment and furnishing of inaccurate particulars of income involving varying sums in these appeals. Learned DR seeks to submit that AY 2017-18 also involves section 270A penalty of under reporting of incomes as a consequence to misreporting. We are of the considered view that once the lower authorities have estimated the assessee's book results there is hardly any justification to levy section 271B penalty for non-submission of tax audit report, which was filed well before the Assessing Officer. Herein again we are of the considered view the same would not be sustainable once the additions have been made on the basis of estimation @ 2.4% (supra). All these penalties stand deleted therefore since there exists a "reasonable" cause in assessee's explanations within the meaning of section 273B of the Act.

9. Lastly comes the Revenue's case in AY 2017-18 that we ought to confirm the impugned section 270A penalty as it pertains to unexplained cash deposit made during the demonetisation period. Learned DR's case is that assessee's cash deposits in fact represent his under reported income u/s. 270A of the Act. We find no merit to accept the Revenue's instant argument as it has come on record in the preceding paragraphs that the assessee had attributed source therefor to his regular business sales, which forms a bonafide "reasonable" cause within the meaning of section

270A(6)(a) of the Act. We accordingly delete all these penalties levied in assessee's case. Necessary computation shall follow as per law. We clarify before parting that we have uphold only the quarterly NP estimation @ 2.4% and partly confirmed Rs. 90,00,000/- addition to the extent of Rs.50,00,000/- (supra) in AY 2017-18 only. All penalties stand deleted.

10. These appeals are filed with a delay of 18/21 days as the case may be. Considering assessee's condonation petition(s) explaining the delay(s) as well as going by the decision in the case of Collector Land Acquisition vs. Mst. Katiji & Ors(1987) 167 ITR 471 (SC) settling the issue long back that that all such technical aspects must make way for the cause of substantial justice, the delay is condoned.

11. These assessee's appeals are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 22<sup>th</sup> August, 2024.

Sd/-  
(Amarjit Singh)  
Accountant Member

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Cochin, Dated: 22August, 2024

n.p.

Copy to:

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

Assistant Registrar/ ITAT, Cochin