

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

Before Shri Waseem Ahmed, Accountant Member and  
Shri Soundararajan K., Judicial Member

**ITA No. 50/Coch/2023**  
(Assessment Year: 2015-16)

Vijayalekshmi K.S. TC 10/1148, Lekshmi Vilas Vattiyookavu Thirivananthapuram 695013 [PAN: ABIPL7317C]	vs.	The Income Tax Officer- 1(3) Aayakr Bhavan, Kawdiar Thiruvananthapuram 695003
(Appellant)		(Respondent)

Appellant by:	Shri KMV Pandalai, Advocate
Respondent by:	Smt. Girly Albert, Sr. D.R.

Date of Hearing:	23.09.2024
Date of Pronouncement:	26.09.2024

**ORDER**

Per Bench

This appeal filed by the Revenue is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 06.12.2022 for Assessment Year (AY) 2015-16.

2. The only issued by the assessee is that the learned CIT(A) erred in confirming the addition of Rs.80,20,774/- under the head long term capital gain even though the capital gain arose on transfer of agricultural land was not chargeable to tax.

3. The assessee in the year under consideration has shown long-term capital gain amounting to Rs. 80,20,774/- and claimed deduction u/s 54 of the Income Tax Act, 1961 (the Act) for the same amount. However, the assessee during the assessment

proceedings claimed that said gain was arising from the transfer of agricultural land and therefore the same is not taxable. However, the Assessing Officer (AO) disagreed with the contention of the assessee on the reasoning that the land in dispute was situated in Perrorkada village and therefore the same is an urban land. Accordingly, the AO disallowed the same and added the sum of Rs. 80,20,774/- as income under the head capital gain. Aggrieved assessee preferred appeal before the CIT(A) who confirmed the order of the AO.

4. Being aggrieved by the order of the learned CIT(A), the assessee preferred an appeal before us.

5. The ld. AR of the assessee before us filed a certificate issued by the Trivandrum Corporation dated 26.12.2021 certifying that the land in dispute was within the limits of Vattiyookavu Grama Panchayath prior to 30<sup>th</sup> September 2010. The learned A.R. also filed Form P (basic tax register) demonstrating that the land in dispute was used for growing paddy. The learned A.R. also filed Revenue records duly notarized demonstrating that the land in dispute was agricultural land. As per the learned A.R. all these documents were not produced before the authorities below which requires to be considered at the level of the AO in the interest of natural justice and fair play. Thus, the ld. AR before us prayed to set aside the issue to the file of the AO for fresh adjudication.

6. On the other hand, the learned Sr. DR raised no objection if the matter is set aside to the file of the AO for fresh adjudication as per the provisions of law.

7. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the learned A.R. before us has filed additional documents which are crucial to deciding the issue at hand. Therefore, we

admit the same under rule 29 of ITAT Rules 1963 and set aside the issue to the file of the AO for fresh adjudication as per the provisions of law.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 26<sup>th</sup> September, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-  
(Soundararajan K)  
Judicial Member

Sd/-  
(Waseem Ahmed)  
Accountant Member

Cochin, Dated: 26<sup>th</sup> September, 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

By Order

Assistant Registrar  
ITAT, Cochin