

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

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

**ITA No. 614/Coch/2023**  
(Assessment Year: 2013-14)

Satish Kishore C. Menon Krishna Vihar, Kuruvath Lane Sankarayya Road Thrissur 680004 [PAN: BWRPM3657H]	vs.	DCIT (International Taxation) Kochi
(Appellant)		(Respondent)

**ITA No. 615/Coch/2023**  
(Assessment Year: 2013-14)

Jayalakshmi C. Menon Krishna Vihar, Kuruvath Lane Sankarayya Road Thrissur 680004 [PAN: BVYPM1772M]	vs.	DCIT (International Taxation) Kochi
(Appellant)		(Respondent)

**ITA No. 616/Coch/2023**  
(Assessment Year: 2013-14)

Rajeshwari C. Menon Krishna Vihar, Kuruvath Lane Sankarayya Road Thrissur 680004 [PAN: BVYPM1866N]	vs.	DCIT (International Taxation) Kochi
(Appellant)		(Respondent)

Appellant by:	Shri K. Kittu, Advocate
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	30.09.2024
Date of Pronouncement:	03.10.2024

**ORDER****Per Bench**

These appeals filed by three different assessees are directed against the order of the CIT(A)-12, Bengaluru dated 21.06.2023 for Assessment Year (AY) 2013-14. Since identical issue is raised in all these appeals, they are heard together and disposed off by this common order for the sake of convenience.

2. First, we take up the ITA No. 614/Coch/2023 as the lead case. The findings of this appeal will mutatis mutandis apply to the other two appeals also.

3. The only issue raised by the assessee in this appeal is that the learned CIT-A erred in adopting the fair market value as directed by the AVO after ignoring the valuation accepted by the Revenue for the purpose of Wealth Tax.

4. In the present case, the assessee is a co-owner of a piece of land along with three parties. The share of the assessee stands  $\frac{1}{4}$  in the impugned land. The Assessing Officer (AO) during the assessment proceedings was not satisfied with the value adopted by the assessee as on 01.04.1981 and therefore he obtained information from the SRO to determine the value as on 01.04.1981 and accordingly worked out the capital gain in the hands of the assessee at Rs. 7,50,40,460/- only. Aggrieved assessee preferred appeal before the learned CIT(A) who partly allowed the ground of appeal of the assessee by observing as under:

*“4.2.3 The AO has since obtained a valuation report from the Assistant Valuation Officer, which gives the FMV as on 1.4.1981. In the Valuation Report, the physical method of valuation by comparable sale instances after considering the various factors influencing the value of the property has been adopted to arrive at*

*the 'Fair Market Value' of the property. The AVO had obtained comparable sale instances of the nearby/similar areas from the SRO, Thrissur. As per the Valuation Report there is a transaction vide deed No.3802 in the year 1981 at Survey No.459 for an amount of Rs.25,030/- per Cent for an area of 6.47 Are. Accordingly, the AVO has fixed the fair market value of the land as on 01.04.1981 based on higher sale instance and other relevant factors at Rs.14,00,000/- (Rupees Fourteen Lakhs Only) for the entire land of 55.5 cents held by the appellant and his family members.*

*4.2.4 In response to the above Valuation Report, the appellant has not controverted the findings or the method adopted by the Asst. Valuation Officer and has instead repeated his claim for reverse indexation. He has reiterated that the value of the asset as on 1.4.2010 adopted for wealth tax purposes should be the base for the reverse indexation. It is to be noted that the appellant's wealth tax assessment was completed on the basis of information on FMV received from the SRO and not on the basis of a valuation done by the Valuation Officer, as has been done in the present instance.*

*4.2.5 As provided in section 16A(6) of the Wealth Tax Act, the provisions of which become applicable when a reference is made by the AO to the Valuation Officer u/s 55A of the Act, the AO has to complete the assessment in conformity with the report of the Valuation Officer. Hence the AO is directed to take the FMV of the land of 55.5 cents as on 1.4.1981 at Rs. 14,00,000/- and recompute the appellant's capital gains accordingly. The grounds of appeal raised by the appellant are therefore, partly allowed.*

*5. In the result the assessee's appeal is partly allowed.”*

5. Being aggrieved by the order of the learned CIT(A) the assessee is in appeal before us.

6. The learned A.R. before us submitted that the value of the property for the Wealth Tax purpose as on 01.04.2010 has been accepted by the Revenue and therefore the same should also be adopted for the purpose of capital gain with the indexation from previous FY 2009-10 corresponding to AY 2010-11. The learned A.R. in support of his contention relied on the judgement of Hon'ble Gujarat High Court in the case of Shantadevi Gaekwad v. DCIT reported in [2012] 250 CTR 421 (Guj).

7. On the other hand, the learned CIT-DR vehemently supported the orders of the authorities below.

8. We have heard the rival contentions of both the parties and perused the materials available on record. It is the accepted fact that the valuation of a property as on 01.04.1981 is subject to various conditions and therefore the element of estimation while valuing the property cannot be ruled out. As such, there is no standard formula so as to work out the value of property as on 01.04.1981. There are various factors which are to be considered for valuing the property such as the surroundings of the area, access to the property, encroachment, if any, legal title, loan, and liability on the property and any other encumbrance. Thus, there is always a dispute in the valuation of the property between the assessee and the Revenue. Coming to the present facts of the case, it is admitted that the Revenue has accepted the valuation of the property for the purpose of Wealth Tax which is not in dispute as on 01.04.2010. Thus, the question arises whether such valuation could also be adopted for calculating the capital gain. This controversy has been answered by the Hon'ble Gujarat High Court in the case cited above by observing as under: -

*“13. We are unable to accept the contention of Mr. Parikh, the learned counsel appearing on behalf of the Revenue, that we should adopt the reverse indexation from the date of actual sale simply because in that process the Revenue will be benefited. We have already pointed out that for the purpose of taxation, It is settled law that when two equally efficacious and acceptable data for the purpose of valuations are available, the one which is beneficial to the assessee should be preferred. The Tribunal below, as it appears from record, did not at all consider this aspect and committed substantial error of law in not following the above well-settled principle of taxation law. Moreover, we have already pointed out that the date March 31, 1989 is nearer to April 1, 1974 than December 1991 and thus, there was no justification of adopting reverse indexation from a farther date.*

*14. Moreover, the full value of consideration received as a result of transfer of this type of jewellery belonging to a royal family is generally higher than the market value of the selfsame material, were it not a regalia. Therefore, for the purpose of ascertaining the market value of such an Item as on April 1, 1974 In order to deduct the same from actual sale price of the article for arriving at the figure of capital gain, it would be unsafe to base the actual sale price by the process of reverse indexation and thus, the valuation accepted by Revenue as market value for the purpose of Wealth Tax Act Is the safest base.*

*15. We, therefore, allow the Appeal and set aside the order passed by the Tribunal and direct the Assessing Officer to recalculate the capital gain by adopting reverse Indexation based on valuation as on 31st March, 1989 disclosed in the return of the assessee under the Wealth Tax Act for the purpose of arriving at the valuation as on April 1, 1974.*

*16. The Appeal, thus, is allowed. We answer the question formulated in this appeal in the affirmative and against the Revenue. In the facts and circumstances, however, there will be no order as to costs.”*

9. In view of the above we hold that the assessee cannot be denied the valuation of the property as admitted by the Revenue for the purpose of Wealth Tax and accordingly we set aside the finding of the learned CIT(A) with the direction to the AO to recalculate the capital gain of the assessee taking into consideration the value determined for the purpose of Wealth Tax with indexation from FY 2010-11 corresponding to AY 2011-12. Hence the ground of the appeal of the assessee is hereby partly allowed.

10. In the combined results, appeals of the all the three assesseees are partly allowed.

Order pronounced on 03<sup>rd</sup> October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-  
(Soundararajan K.)  
JudicialMember

Sd/-  
(Waseem Ahmed)  
AccountantMember

Cochin, Dated: 03<sup>rd</sup> October, 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