

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

I.T.A.No.745/COCH./2023 (Sl.No.34)
Assessment Year 2008-2009

Thahira Beevi, Zeenosilil, Punnodu, Navaikulam, Vettiyara P.O. TRIVANDRUM – 695 603. KERALA. PAN AURPT2674E	vs.	The DCIT, Central Circle-1, Aayakar Bhavan, Kowdiar, Trivandrum. KERALA.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Sri Dr. S. Pandian, CIT-DR

Date of Hearing :	21.08.2024
Date of Pronouncement :	25.09.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal, for assessment year 2008-2009, arise against the CIT(A)-3, Kochi, Kochi's order in Appeal. No.ITA.82/TVM/CIT(A)-III/2014-15, dated 29th June, 2023, in proceedings u/sec.143(3) r.w.s.153C of the Income Tax Act, 1971 (in short the "Act").

Case called twice. None appears at assessee's behest. She is accordingly proceeded ex-parte.

2. Learned CIT-DR vehemently supports both the learned lower authorities action disallowing assessee's plea i.e., sale of gold ornaments of Rs.5 lakhs for the purpose of making investment in M/s. Mini Medical Trust; disallowance of agricultural income of Rs.48,000/- and interest on bank charges amounting to Rs.3,63,985/-; respectively. He submits that it was the bounden duty of the assessee only to file all the cogent evidence(s).

3. We note in this factual backdrop that although there is nothing prima facie perverse found in the instant former two heads of additions in principle; the fact remains that availability of cash in hand in assessee's case as well as having derived some agricultural income, could not be altogether ruled out. We accordingly are of the considered view that valuation of former addition of Rs.5 lakhs deserves to be upheld to the extent of Rs.3.5 lakhs only and Rs.48,000/- disallowance/addition is eligible to be restricted to a *lump sum* amount of Rs.15,000/- only. The assessee gets part relief of Rs.1.5 lakhs and Rs.33,000/- as a consequence of our foregoing issues.

4. Lastly comes interest and bank charges disallowance of Rs.3,63,985/-, regarding which, the assessee raised her claim for the first time before the CIT(A). Learned CIT-DR submits that the same has rightly not been admitted for detailed adjudication since raised in the lower appellate proceedings. We quote Goetze (India) Ltd., vs. CIT [2006] 284 ITR 323 (SC) that there is no statutory bar in raising such a claim for the first time in sec.251 lower appellate proceedings. We accordingly deem it appropriate to restore the assessee's instant third substantive grounds back to the Assessing Officer for his afresh verification and adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

5. This assessee's appeal is partly allowed for statistical purposes in above terms.

Order pronounced in the open Court on 25.09.2024.

Sd/-
[AMARJIT SINGH]
ACCOUNTANT MEMBER
Cochin, Dated 25th September, 2024
VBP/-

Sd
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A) concerned.
4.	The CIT concerned
5.	The D.R. ITAT, Cochin Bench, Cochin.
6.	Guard File.

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,
Cochin