

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

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

**ITA Nos. 811 to 813/Coch/2023**  
(Assessment Years: 2006-07, 2007-08 & 2009-10)

Jabbar Mattul Abdul Hotel Park Royale Building MG Road, Pallimukku Ernakulam 682016 [PAN: BKXPA6088G]	vs.	DCIT (International Taxation) Kochi
(Appellant)		(Respondent)

Appellant by:	Shri G. Surendranath Rao, CA
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	14.08.2024
Date of Pronouncement:	25.09.2024

**ORDER**

Per Bench

These assessee's three appeals arise against orders of the CIT(A)-12, Bengaluru in proceedings u/s.144 r.w.s.147 of the Income Tax Act, 1961 (the Act) as below: -

Sr. No.	ITA No.	AY	DIN & Order No.	Date
1	811/Coch/2023	2006-07	ITBA/APL/M/250/2023-24/1056589704(1)	27.09.2023
2	812/Coch/2023	2007-07	ITBA/APL/M/250/2023-24/1056591045(1)	27.09.2023
	813/Coch/2023	2009-10	ITBA/APL/M/250/2023-24/1056591989(1)	27.09.2023

Heard both the parties at length. Case files perused.

2. We find during the course of hearing that the learned CIT(A)'s identical lower appellate discussion for all these three assessment years has upheld the Assessing Officer's action *inter alia*, initiating sec.148/147 reopening(s) followed by his consequential re-assessment(s) adding the assessee's alleged deposits made in the undisclosed bank account(s) maintained in Switzerland.
3. Learned counsel's case before us is that not only both the learned lower authorities have erred in initiating sec.148/147 proceedings against the assessee, but also the impugned addition(s); involving varying sums; have been wrongly made in his hands. His further case is that assessee had not made the impugned deposits in the assessment years in question only the sum could not be added in assessee's case(s) once reopening itself is not sustainable in law.
4. The Revenue has drawn strong support from both the learned lower authorities action on legality as well as on merits in foregoing terms.
5. We have given our thoughtful consideration to the foregoing vehement rival contentions and notice from the CIT(A)'s order in para-8 page-16 that the Assessing Officer had made substantive addition(s) in assessee's brother/family member(s) hands followed by protective assessment(s) in question before us, That being the case, we see that there is indeed a lack of clarity indicating the final outcome of the foregoing substantial addition(s) of the very deposits in assessee's brother's hands and therefore, we see no reason to first decide the validity thereof in protective proceedings. We further deem it appropriate to quote *Lalji Haridas vs. ITO [1961] 43 ITR 387 (SC)* and *DHFL Venture Capital Fund vs. ITO [2013] 358 ITR 471 (Bom.)* that a protective addition comes into play when there arises doubt in the mind of an Assessing Officer as to in whose hands a particular income is taxable. We accordingly deem it appropriate at this stage to restore assessee's all the instant three

appeals back to the CIT(A) for his afresh appropriate adjudication in tune with sec.250(6) of the Act; after determining status of the substantive addition(s); within three effective opportunities of hearing, subject to a rider that it shall be the assessee's sole risk and responsibility to plead and prove with all relevant document(s), in consequential proceedings. Ordered accordingly.

We make it clear before parting that nothing contained herein shall be taken as an expression on merits of the issue(s); as the case may be.

6. These assessee's three appeals ITA.Nos.811 to 813/Coch./2023 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 25<sup>th</sup> September, 2024.

Sd/-  
(Amarjit Singh)  
Accountant Member

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Cochin, Dated: 25<sup>th</sup> September, 2024

VBP/-

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