

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

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

**ITA No. 701/Coch/2023 &  
CO No. 1/Coch/2024**  
(Assessment Year: 2013-14)

ACIT, Central Circle - 2 Aayakar Bhavn Mananchira, Kozhikode 673001 [PAN: AFPPM7197G]	vs.	K.K. Mohandas Kolanthara House Melmurugodi Post Peravoor, Kannur 670673
(Appellant)		(Respondent/Cross Objector)

Appellant by:	----- None -----
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	14.08.2024
Date of Pronouncement:	25.09.2024

**ORDER**

Per Bench

This Revenue's appeal ITA No.701/Coch/2023 along with assessee's cross objection CO No.1/Coch/2024 therein, for A.Y. 2013-14, arise against the National Faceless Appeal Centre, Delhi [CIT(A)]'s DIN & Order No. ITBA/NFAC/S/250/2023-24/1053769985(1) dated 16.06.2023 in proceedings u/s. 250 of the Income Tax Act, 1961 (the Act).

Case called twice. None appears at assessee's behest. We accordingly proceed exparte.

2. Learned CIT-DR vehemently argued during the course of hearing that the CIT(A) herein has erred in law and on facts in quashing the impugned assessment

dated 29.03.2016 framed u/s. 143(3) read with sec.153C as barred by limitation going by section 153B of the Act. Mr.Das has taken pains to submit that the “search” herein was conducted on 26.09.2012 and that the Assessing Officer happens to be a common one between the searched party as well as the assessee. His case in light of these facts that once the Assessing Officer is common, the time limitation as per section 153C(1) 1<sup>st</sup> proviso is also the date of search itself and therefore, it is not section 153B but normal time limit prescribed in section 153 which would prevail. He accordingly concludes that the Assessing Officer’s assessment dated 29.03.2016 deserves to be restored as within limitation in very terms.

3. We have given thoughtful consideration to Revenue’s instant sole substantive grievance and found no substance therein. We make it clear that even if the Assessing Officer is stated to be common in both the searched party as well as the assessee (s), the fact remains that he had admittedly recorded section 153C satisfaction on 21.05.2013 (relevant to AY 2014-15) whereas the impugned assessment year before us is 2013-14. We invited the Revenue’s worthy attention to sec.153C(1) 1<sup>st</sup> proviso stipulating that “the reference to the date of search..... shall be construed as reference to the date of receiving the books of account..... by the Assessing Officer having jurisdiction over such other person”. We wish to emphasis here that the legislature has nowhere indicated an exception that such “a date of initiation” or “making of a requisition”; as the case may be; does not continue to remain the same in an instance involving a common Assessing Officer for searched as well as third party. The necessary inference which arises from a reading of the sec.153C(1) 1<sup>st</sup> proviso is that even if the Assessing Officer is the same between the foregoing twin categories of “persons”, the date of search or requisition, has to be taken as that of “receiving the books of documents or assets” ..... having jurisdiction over the third person.

4. We now proceed to deal with the statutory limitation for framing sec.153C assessment. There would be hardly any dispute that sec.153B is a self exhaustive provision dealing with the time frame(s) of a search assessment; be it u/s.153A or 153C of the Act, as is in the nature of a “non-obstante” clause having over-riding affect over the general provision(s) i.e., sec.153 of the Act. We note that sec.153B(1)(a) and (b) as applicable in case of the specified years u/s.153A and the year of the search itself, respectively, prescribe limitation of “twenty one months from the end of Financial Year in which .....”. All this is followed by the 1<sup>st</sup> proviso thereto stipulating time limit for framing sec.153C assessment as under:

"Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later"

4.1. We reiterate that the "longer" time limit for assessments) of Assessing Officer herein in assessee's case starts from "end of the financial year in which books.... are handed-over u/sec. 153C to the Assessing Officer having jurisdiction"; if counted from 31.03.2013 [going by the original date of search i.e., 20.09.2012] or 31.03.2014 [as per the date of sec. 153C satisfaction dated 21.05.2013] and therefore, in any eventuality, the impugned assessment dated 29.03.2016 ought to have been framed on 30.12.2014 or 31.12.2015, respectively. That being the case, we hereby conclude that the learned CIT(A) has rightly quashed the impugned assessment dated 29.03.2016 as a time barred one. The Revenue's instant sole substantive ground as well as the main appeal ITA.No.701/Coch/2023 fail accordingly in these facts and circumstances.

5. The assessee's cross objection CO No.1/Coch/2024 is dismissed as infructuous.

6. To sum-up, this Revenue's appeal ITA.No.701/Coch./2023 is dismissed and assessee's cross objection C.O.No.1/Coch./2024 is dismissed as infructuous. 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.

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