

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

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.905/Coch/2023
Assessment Year 2015-16

Sri.Biju Thottathil Mathew Thottathil, Kottoli Mammilimeethal Paramba Kozhikode – 673 016. PAN : ADAPT7151Q.	v.	The Income Tax Officer Ward-2, Kalpetta.
(Appellant)		(Respondent)

Appellant by : ----- None -----
Respondent by : Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing : 12.08.2024	Date of Pronouncement : 25.09.2024
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ORDER

Per Bench :

This assessee's appeal for A.Y. 2015-16 arises against the National Faceless Appeal Centre, Delhi [CIT(A)]'s DIN & Order No. ITBA/NFAC/S/250/2023-24/1057136409(1) dated 17.10.2023 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. It emerges at the outset with the able assistance coming from the Revenue's side that both the lower authorities have made section 69B protective assessment of Rs.2,03,02,558/- in assessee's hands. Learned D.R. vehemently argues that vide assessment findings in para 3, the Assessing Officer had made his intention clear for the purpose of making substantive

assessment in proportional terms. We are afraid that such a course of action in making a protective addition first and substantive addition latter is not sustainable in light of Lalji Haridas v. ITO [1961] 43 ITR 387 (SC) and Suersh K. Jajoo v. ACIT [2010] 39 SOT 514 (Mum) supporting assessee's case that a protective addition comes to play then there arises a doubt in the mind of the Assessing Officer regarding taxability of an income in case of more than one assessee, he could indeed make a substantive addition followed by the protective one and not vice versa. Faced with situation, we deem it as a fit case to delete the impugned protective addition in very terms. Ordered accordingly.

3. This assessee's appeal is allowed.

Order pronounced in the open court on this 25th Day of September, 2024.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Cochin ; Dated : 25th September, 2024.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Concerned.
4. The CIT Concerned.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst. Registrar/ITAT, Cochin