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

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

**ITA No. 351/Coch/2024**
(Assessment Year: 2017-18)

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| Chemmagnat Kunjayyappan Rugmani<br>Kunnappilly House<br>Peramangalam P.O.<br>Thrissur 680312<br>[PAN: ACUPR8533R] | vs. | ACIT, Circle - 2(1)<br>Aayakar Bhavan<br>Sakthanthampuran Nagar<br>Thrissur 680001 |
| (Appellant) | | (Respondent) |

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| Appellant by: | Ms. Preetha S. Nair, Advocate |
| Respondent by: | Ms. Leena Lal, Sr. D.R. |

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| Date of Hearing: | 03.10.2024 |
| Date of Pronouncement: | 21.10.2024 |

**O R D E R**

Per Bench

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 27.02.2024 for Assessment Year (AY) 2017-18.

2. The first issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 9,40,138/- as unexplained investment u/s 69 of the Income Tax Act, 1961 (the Act).

3. The assessee in the present case had made deposits for Rs. 13,86,638/- source of which was explained as detailed below:

(i) Withdrawal from the pension Rs. 58,000/-
(ii) Borrowing from daughter Rs. 5,32,000/-

(iii) Withdrawal from business Rs. 78,500/-

4. However, the Assessing Officer (AO) found that there is no evidence given by the assessee for the sum of Rs. 5,32,000/- received from daughter and accordingly confirmed the same as addition treating unexplained cash credit. Furthermore, the AO found that there is no correlation between the withdrawal of money from pension vis-à-vis the deposits made in the bank. As per the AO the assessee should have used the funds withdrawn from pension for Rs. 40,000/- per month aggregating to Rs, 4,80,000/- towards domestic expenses for the year in dispute. Thus, the AO treated the balance amount of Rs. 3,68,000/- out of the withdrawal from pension used in making the impugned deposits. Thus, the AO treated the sum of Rs.9,50,138/- as unexplained investment u/s 69 of the Act and added to the total income of the assessee. Aggrieved assessee preferred an appeal to the learned CIT(A) who confirmed the same by observing as under: -

> *"9.1 I have gone through the facts of the case, findings in Assessment Order and rival submissions. The appellant has provided an affidavit and certain arguments about personal expenses to justify the source of term deposits made by it during the year. Going by the appellant's claim, the money was first withdrawn from bank and given in cash to the appellant for making term deposits. However, the authenticity of her claims remains unproved. The copy of affidavit produced during appellate proceedings, not corroborated by any books of account/evidence, renders it as self- serving in nature. As mentioned by the AO too in his Order, 'there is no proof that the amounts were given to her mother for the purpose of investment in fixed deposits and the co-relation between dates has also not been established. The fact is that cash does not have any colour. The appellant has not brought forth any credible evidence regarding the source of term deposits. The arguments of the appellant thus carry nostrength. The AO has already allowed the appellant the benefit of Rs. 4,46,500/- out of withdrawals claimed and made addition of Rs. 9,40,138/-.*
>
> *9.2 As an aside, it may not be out of place to mention here that the year under consideration (FY 2016-17) was a crucial year in the country's economy, for, with demonetization announced, there was hectic transfer of old currency notes through various channels to regularize the unexplained and undisclosed income in certain cases. For this reason, the Department had launched various measures such as enforcement drives and Operation Clean Money (OCM) on 31.01.2017 to*

*analyze the data of persons who deposited large sums of cash and whose Returns of income were not in sync with such deposits.*

*9.3 In view of the facts and findings as discussed in preceding paras, I see no reason to interfere with the addition made by the AO in the Assessment Order on this issue and this ground of appeal is dismissed."*

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 contended that the Revenue has not brought anything on record that the money received from daughter has been used elsewhere other than the purpose of deposits. According to the learned A.R. there was withdrawal from the bank account of the daughter on different dates in the year under consideration which justifies the source of Rs.5,32,000/- only.

7. The AO without any basis has assumed that there was domestic expense to the tune of Rs. 40,000/- per month aggregating to Rs. 4,80,000/- per annum out of the withdrawals from pension. As per the learned A.R. such inference drawn by the AO is not sustainable.

8. On the other hand, the learned Sr. DR vehemently supported the orders of the authorities below.

9. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly the onus lies upon the assessee to justify the source of deposits made in the co-operative bank which has been duly discharged in the given set of facts. As per the assessee the sum of Rs. 5,32,000/- was received from daughter which is supported by the affidavit and the details of withdrawals from the bank which is duly incorporated in the CIT(A)'s order on pages 18 & 19. Thus, we are of the view that the assessee has discharged the onus by furnishing the source of money of Rs.

5,32,000/- only. Now the onus shifts on the Revenue to disprove the contentions of the assessee based on cogent reasons, but no such fact has been brought on record by the Revenue suggesting that the money of Rs. 5,32,000/- has been utilized somewhere else. As such, we are of the view that in the absence of any adverse material, it can be presumed that the money received from daughter has been used for the purpose impugned deposits. As such there is no need to make any one-to-one correlation as alleged by the Revenue.

10. Moving ahead, admittedly, there was withdrawal from the pension of Rs. 8,58,000/- which the assessee claimed to have used for making deposits in the co-operative bank. However, what we find is that the Revenue authorities without disproving the contention of the assessee has assumed the utilization of withdrawal of pension of Rs. 40,000/- on monthly basis aggregating to Rs. 4,80,000/- towards house-hold expenses. As such, we are of the view that the basis of utilizing the amount withdrawn from pension for Rs. 4 80,000/- towards domestic expenses by the Revenue is without any basis. Accordingly, we hold that the money withdrawn from pension has been used in entirety towards deposits as discussed in the order of the authorities below. Accordingly, we set aside the findings of the learned CIT(A) and direct the AO to delete the addition made by him. Hence, the ground of appeal of the assessee is allowed.

11. The next issue raised by the assessee is that the learned CIT(A) erred in making the addition of Rs. 63,258/- representing input of KVAT by enhancing the closing stock and consequently increasing the net profit of the assessee.

12. The AO in the present case found that the assessee has not included KVAT in their closing stock amounting to Rs. 63,258/- which was to be added under the provisions of law. Therefore, the AO added the same to the income of the assessee. Aggrieved assessee preferred an appeal before the learned CIT(A) who also confirmed the order of the AO by observing as under: -

> *"8. Ground No. 3: This ground of appeal has been raised against the addition of Rs. 63,258/- KVAT to the value of closing stock for the year by the AO. During assessment proceedings, as seen from the Assessment Order, the appellant did not raise any objection when confronted by the AO on the proposed addition. In appeal the appellant has argued that when adjustments are made in the valuation of closing inventory the same will be reflected in the opening stock also irrespective of any consequences in the computation of income for tax purpose. However, it is seen that the appellant did not explain and support her contention with any substantiating evidence. In the absence of complete factual details the ground of appeal raised by the appellant cannot be allowed. I therefore find no reason to interfere with the finding of the AO on this issue and this ground of appeal is dismissed."*

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

14. The learned A.R. before submitted that the assessee is following exclusive method of accounting and therefore the amount of KVAT was not included in the opening stock, purchases, and sales and likewise the KVAT was also not included in the valuation of closing stock. According to the learned A.R. the entire exercise of including KVAT in the closing stock is tax neutral.

15. On the other hand, the learned D.R. vehemently supported the orders of the authorities below.

16. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the authorities below have

included the value of KVAT in the closing stock without giving the effect to the corresponding amount of purchased, opening stock and the sales which is required to be made under the inclusive method of accounting. Accordingly, we are of the view that if simultaneous effect of KVAT is given to the opening stock, purchases and sales, the entire exercise of making the impugned addition is going to be tax neutral. Thus, we are of the view that no addition in the given set of facts is warranted.

17. Besides the above, we also note that if any addition is sustained in the value of closing stock, then the effect to the corresponding opening stock of the next year should also be given which will make the addition made by the Revenue as tax neutral. However, what we note that there is no direction given by the Revenue for enhancing the amount of opening stock by the value added in the closing stock for the year in dispute. Thus, in view of the above we hold that no addition is warranted in the given facts and circumstances. Accordingly, we set aside the finding of the learned CIT(A) and direct the AO to delete the addition made by him.

18. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 21st October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

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| Sd/- | Sd/- |
| (Soundararajan K.) | (Waseem Ahmed) |
| JudicialMember | AccountantMember |

Cochin, Dated: 21st 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