

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

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

**ITA No. 24/Coch/2024**  
(Assessment Year: 2015-16)

Kunhi Koyathengal Salim Thangal Mullakoya Thangal Valiyajarathingal Chavakkad, Thrissur 680515 [PAN: BCGPM7029G]	vs.	DCIT, Circle - 1 Thrissur
(Appellant)		(Respondent)

Appellant by:	Smt.Parvathy Ammal, CA
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	03.10.2024
Date of Pronouncement:	21.10.2024

**ORDER**

Per Bench

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax, (International Taxation), Kochi u/s. 144C(1) of Income Tax Act, 1961 (hereinafter "the Act") dated 07.02.2023 for Assessment Year (AY) 2015-16.

2. The only effective issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 9.51 lakh on account of cash deposit.

3. The facts in brief are that the assessee is an individual and NRI for the purpose of the Act. It was found that the assessee during the year under consideration deposited cash amounting to Rs. 27,51,000/- only. The assessee

explained the sources of cash deposit from opening cash balance and the withdrawal made during the year.

4. However, the AO found that the similar deposit of Rs. 40.90Lakh was made in the immediate previous assessment year i.e. A.Y. 2014-15 which was treated as unexplained in the assessment order. The assessment order reached to finality as assessee did not file any appeal. Therefore, the opening cash balance shown during the year for Rs. 18 Lakh which claimed as source of deposit for the year under consideration remains unexplained. Accordingly, the AO held that the source of cash deposited during the year was not explained by the assessee. Hence, the AO proceeded to make addition of cash of deposit by treating the same as unexplained, however the AO provided the credit of Rs. 18 Lakh by holding that the same was already subjected to addition in the immediate previous assessment year. Thus, the AO finalized the draft assessment order by purposing to make addition of Rs. 9.51 Lakh (27.51 Lakh – 18 Lakh) only.

5. The aggrieved assessee raised objections before the learned DRP who rejected the objection of the assessee. Thereafter, the AO made final assessment order by making an addition of Rs. 9.51 Lakh only.

6. Being aggrieved by the final assessment order the assessee is in appeal before us.

7. The learned AR for the assessee before us contended the assessee during the year under consideration, there was total withdrawal of Rs. 1,85,79,950/- out of Rs. 1,47,99,000/- utilized towards purchase of property and building construction. The lower authorities while dealing with source of deposit of cash has not considered the amount of cash withdrawn. The learned

AR further submitted identical addition was made in the hand of the assessee for A.Y. 2014-15 which was a set aside to the file of the AO by the ITAT in ITA No. 202/Coch/2023 for fresh adjudication. Therefore, the issue on hand should also be set aside to file of AO fresh adjudication after consideration of cash withdrawal.

8. The learned DR raised no objection if the issue is set aside to the file of the AO for fresh adjudication as per law.

9. We have heard the rival contentions of both the parties and perused the materials on record. At the outset, we note that identical addition on account of cash deposit was made in the hands of assessee in the immediately preceding assessment year 2014-15 and dispute reached to this tribunal in assessee's appeal bearing ITA No. 202/Coch/2023. The tribunal vide order dated 22-08-2024 set aside the issue to the file of the AO by observing as under:

*2. It emerges at the very out that the assessee's sole substantive grievance canvassed in the instant appeal challenges correctness of both the learned lower authorities action making sec.69A unexplained money addition of Rs.40.90 lakhs representing cash deposits made in his bank account(s). Learned counsel invited our attention to assessment discussion in page-2 that the assessee had in fact carried-out 77 entries of cash deposits and withdrawals for the period from 02.03.2013 to 31.03.2014 involving varying sums. That being the case, there is no rebuttal from the department's side either indicating the learned assessing authority to have gone by the peak amount or any telescoping of the corresponding withdrawals either in the course of assessment or in learned Dispute Resolution Panel's [DRP] directions.*

*3. Faced with this situation, we deem it appropriate to direct the assessee to file his cash flow statement as well as reconciliation of all the withdrawals/alleged deposits before the learned Assessing Officer for his fresh appropriate examination within three effective opportunities at his own risk and responsibility. The Assessing Officer shall indeed consider the same as per law in consequential proceedings. Ordered accordingly.*

10. Respectfully following the finding the coordinate bench of this tribunal in own case of the case of the assessee for immediately preceding assessment year and considering the issue on hand identical and somewhat connected to the facts involved in said assessment year, we hereby set aside the issue to the file of the AO for fresh adjunction as per the direction of tribunal in ITA No. 202/Coch/2023 (supra). Hence the ground of appeal of the assessee is hereby allowed for statistical purposes.

11. In the result appeal of the assessee is allowed for statistical purposes. .

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

Sd/-  
(Soundararajan K.)  
Judicial Member

Sd/-  
(Waseem Ahmed)  
Accountant Member

Cochin, Dated: 21<sup>st</sup> 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