

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

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

ITA Nos. 618 to 621/Coch/2023
(Assessment Years: 2012-13 to 2015-16)

Princy Josekutty Kannattumadhom Kuthukuzhy Kothamangalam 686691 [PAN: AFBPJ3647J] (Appellant)	vs.	ACIT, Central Circle - 1 6th Floor, Kandamkulathy Tower, M.G. Road Ernakulam (Respondent)
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Appellant by:	Smt. Divya Ravindran, Advocate
Respondent by:	Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing:	19.08.2024
Date of Pronouncement:	23.10.2024

ORDER

Per Bench

These assessee's four appeals arise against orders of the CIT(A)-3, Kochi in proceedings u/s. 250 of the Income Tax Act, 1961 (the Act) as under :-

Sr. No.	ITA No.	AY	DIN & Order No.	Date
1	618/Coch/2023	2012-13	ITA 107/E/CIT(A)-III/2019-20	29.06.2023
2	619/Coch/2022	2013-14	ITBA/APLS/S/250/2023-24/1054042502(1)	29.06.2023
3	620/Coch/2023	2014-15	ITA 109/E/CIT(A)-III/2019-20	29.06.2023
4	621/Coch/2023	2015-16	ITBA/APLS/S/250/2023-24/1054042548(1)	29.06.2023

Heard both parties. Case files perused.

2. Both the learned representatives at the outset invite our attention to the CIT(A)'s detailed discussion in the assessee's "lead" appeal in ITA NO. 618/Coch/2023, in first and foremost assessment year 2012-13, confirming the assessment making addition of Rs.19,19,000/- in her hands as follows: -

"2. The appellant, Smt. Princy Josekutty is partner in Partnership Firms, which are sister concerns of KLM Group of business entities. Subsequent to search operation u/s.132 of the Act carried on at the business and residential premises of KLM and Homeshine Groups on 05/10/2015, a notice u/s.148 was issued to the appellant who had been a partner in many firm in the group for the AY under consideration. During the course of the proceedings it was found that there were cash credits in the bank account of the appellant to the tune of Rs. 10,19,000/- the source of which was not commensurate with the return of income filed by the appellant. During the course of assessment proceedings, the appellant has stated that the income under consideration was offered to tax in the hands of her husband Shri Josekutty Xavier in the petition filed before the Hon'ble Income Tax Settlement Commission (ITSC). In the absence of any evidence, such as order by the ITSC, to validate the claim of the appellant, the AO made a protective addition of Rs. 10,19,000/- in the hands of the appellant. Against the order of the AO, the appellant has preferred the present appeal raising the following ground.

The addition amounting to Rs. 10,19,000/- made by the AO is illegal as the income added by the AO was offered in the hands of the husband of the appellant Shri Josekutty Xavier, in the petition filed before the Hon'ble ITSC.

3. I have perused the order of the AO and the ground raised by the appellant. It needs to be stated here that during the course of assessment proceedings, the appellant has made a submission that the cash credits appearing in her bank accounts has been offered to tax in the hands of her husband Shri Josekutty Xavier. However, the appellant has not adduced any evidence to substantiate her claim. At the time of filing the appeal, the appellant has raised the same ground but failed to adduce evidence such as order u/s.245D(1) or 245D(2) to substantiate her claim. Even in response to notices issued u/s.250 of the Act, the appellant has not submitted any such evidence. In the absence of any evidence to this effect, I find no infirmity in the addition of Rs. 10,19,000/- made by the AO on protective basis. Accordingly, the same is confirmed."

4. In the result, the appeal is Dismissed."

3. Learned counsel next submits that we are dealing with the protective addition in assessee/wife's cases and her husband already stands assessed for the very substantive addition as per the proceedings finalised before the Settlement Commission (supra). Faced with this situation, the Revenue's case before us is that the instant issue requires Assessing Officer's afresh factual verification once the assessee has not filed all the relevant details in both the lower proceedings.
4. We accordingly deem it a fit case to restore back to the learned Assessing Officer for his afresh factual verification in the foregoing terms with a rider that it shall be assessee's risk and responsibility to plead and prove the relevant facts in the consequential proceedings within three effective opportunities of hearing.
5. Same order to follow in assessee's latter three appeals in ITA 619, 620 & 621/Coch/2023 since raising identical pleadings. Ordered accordingly.
6. This assessee's four appeals ITA.Nos.618 to 621/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 23rd October, 2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin, Dated: 23rd 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