

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

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

ITA Nos. 285 & 286/Coch/2014
(Assessment Years: 2010-11 & 2009-10)

Assistant Director of Income Tax (Exemption) Room No. 407, 4th Floor Aayakar Bhavan, Kowdiar Thiruvananthapuram 695003 (Appellant)	vs.	Electronics Techonology Park- Kerala, Park Centre, Technopark Campus, Karyavattom Thiruvananthapuram 695-81 [PAN: AAAAE2506N] (Respondent)
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CO No. 02/Coch/2016
(Arising out of ITA No. 286/Coch/2014)
(Assessment Year: 2009-10)

Electronics Techonology Park- Kerala, Park Centre, Technopark Campus, Karyavattom Thiruvananthapuram 695-81 [PAN: AAAAE2506N] (Cross Objector)	vs.	Assistant Director of Income Tax (Exemption) Room No. 407, 4th Floor Aayakar Bhavan, Kowdiar Thiruvananthapuram 695003 (Appellant in Appeal)
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Assessee by:	Shri Akhil Varghese, CA
Revenue by:	Dr. S. Pandian, CIT-DR

Date of Hearing:	22.08.2024
Date of Pronouncement:	23.10.2024

ORDER**Per Bench**

These Revenue's twin appeals ITA.Nos.285 & 286/Coch/2014 and assessee's cross-objections C.O.No.02/Coch./2016, arise against two separate order(s) of the Commissioner of Income Tax (Appeals), Thiruvananthapuram [CIT(A)], as under :

Sl.No.	ITA.No.	AY	Appeal No.	Date of Order	Proceedings u/sec. of the Income Tax Act, 1961
1.	285/Coch./2014	2010-2011	ITA-43/TVM/CIT(A)TVM/12-13	28.02.2014	143(3)
2.	286/Coch./2014	2009-2010	50/TVM/CIT(A)	28.02.2014	
3.	C.O.No.2/Coch./2016 in ITA.286/Coch./2014		TVM/11-12		

Heard both the parties. Case files perused.

2. It emerges during the course of hearing that the Revenue's identical substantive ground(s) in its instant twin appeal challenge the CIT(A)'s action granting relief to the assessee thereby reversing the assessment findings wherein the Assessing Officer has held that the assessee is covered under the last limb of section 2(15) of the Act and therefore, it was carrying out its activities which are commercial in nature. The assessee's cross objection CO No. 2/Coch/2016 on the other hand are found to be supportive of the CIT(A)'s action treating it as carrying out charitable activities only.

3. We have given our thoughtful consideration to the rival contentions against the in support of the lower authorities' findings. Suffice to say, there is hardly any dispute between the parties that these appeals stood adjourned *suo moto* in light of the assessee's letter dated 14.09.2020 as under: -

"14.09.2020

Please Quote: RK/101/IT

*The Registrar,
Income Tax Appellate Tribunal,
Cochin Bench, Cochin
1st Floor, Block C-I & C-II,
Kendriya Bhavan, Kakkanad
Cochin-682037.*

Sir,

*Sub: Request for adjournment- Electronics Technology Parks, Kerala- PAN
AAAAE6638A*

*Ref: 1. ITA No. 285/Coch/2014 (A.Y. 2010-11)
2. ITA No. 286/Coch/2014 (A.Y. 2009-10)
3. C.O. 02/Coch/2016 (A.Y. 2009-10)*

Kindly note that the above referred appeals are listed for consideration before the Hon'ble Forum, on 15.09.2020. Kindly note that we are awaiting the records from the office at Trivandrum, which is now functioning very marginally, due to Covid-19 pandemic. We may be granted an adjournment of hearing of the above referred appeals.

Inconvenience caused, is deeply regretted.

Thanking You,

Yours faithfully"

4. It is in this backdrop that the learned CIT-DR submits before us that hon'ble apex court's landmark decision in ACIT vs. Ahmedabad Urban Development Authority [2022] 144 taxmann.com 78 (SC) has categorically settled the issue that such business/commercial activities by the assessee concerned are covered under the last limb of section 2(15) of the Act, and not entitled for section 11 exemption therefore.

5. Learned counsel on the other hand submitted that their lordships have restored the matter back to the Assessing Officer for his afresh factual verification keeping in mind the assessee's objects vis-à-vis activities carried-out. We thus deem it appropriate to go by their lordships reasoning *mutatis mutandis* to restore the Revenue's twin appeals and assessee's cross objection herein back to the learned Assessing Officer for his afresh adjudication in very terms.

6. It goes without saying that the assessee shall be indeed at liberty to plead and prove all the relevant facts by filing all supportive evidence(s). Ordered accordingly.

7. These Revenue's twin appeals ITA Nos. 285 & 286/Coch/2014 and assessee's cross objection CO 2/Coch/2016 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 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

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