

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

**Before SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No.95/Coch/2017
ALONG WITH
Stay Application No.19/Coch./2017
Assessment Year – 2010-2011

M/s.Kerala State Civil Supplies Corpn. Ltd., Kochi. PAN AAACK6767F C/o.Varma & Varma, C.As COCHIN – 19. KERALA	vs.,	The Assistant Commissioner of Income Tax, Circle-1(2) KOCHI, KERALA.
(Appellant)		(Respondent)

For Assessee :	Shri Satyanarayanan, C.A
For Revenue:	Dr.S.Pandian, CIT-DR

Date of Hearing:	23.08.2024
Date of Pronouncement	07.11.2024

ORDER

PER BENCH :

This assessee's appeal ITA.No.95/Coch/2017 along with stay application SA.No.19/Coch./2017, arise against the order of the learned CIT(A)-1, Cochin, Cochin's order in Appeal No.ITA.292/R-4/E/CIT(A)-1/2016-17, dated 31st January, 2017, for the assessment year 2010-11, in

proceedings u/sec.143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. We advert to the assessee's first and foremost legal ground challenging validity of the impugned reopening as not sustainable in law.

3. The Revenue raises it's vehement technical objection at this stage that such a recourse of an additional ground is not permissible. We find that the assessee has already placed on record the reopening reasons and therefore, we quote NTPC Ltd., vs. CIT [1998] 229 ITR 383 (SC) and All Cargo Global Logistics Ltd., vs. ACIT [2012] 137 ITD 287 (Mum.) (SB) holding that the tribunal could very well entertain such an additional ground going to root of the matter provided all the facts form part of the record, to reject the Revenue's foregoing objection in very terms.

4. We next note that the Assessing Officer had recorded the following reasons to believe that the assessee's

taxable income liable to be assessed had escaped assessment on 23.09.2014 :-

"During the course of scrutiny proceedings for A.Y. 2011-12, it was found that for A.Y. 2010-11 the assessee had offered write-off of loans and interest from Kerala state Government below the line. Therefore, I have reasons to believe that income has escaped assessment. Issue notice u/sec. 148."

5. We had directed the learned CIT-DR to verify the said reopening reasons from the field authority(ies). He submits very fairly that these are the only sec. 148 reopening reasons recorded by the learned assessing authority. That being the clinching case, we are of the considered view that the impugned reopening itself is not sustainable in law. We first of all quote [2004] 268 ITR 332 (Bom.) Hindustan Lever Ltd., vs. RB Wadkar that such reasons "all required to be read as they recorded by the Assessing Officer. No substitute or deletion is permissible. No addition can be

made to those reasons. No inference can be allowed to be drawn based on reason not recorded."

5.1. We keep in mind these settled principles and note that the learned Assessing Officer nowhere recorded as to how and in what manner the assessee's taxable income liable to be assessed had escaped assessment. There is also no whisper about quantification of such an escaped income as well in the above extracted reasons. Case law [2024] 464 ITR 305 (Bom.) Ramna Pinto vs. DCIT; [2019] 413 ITR 400 (Del.) Revolution Forver Marketing (P.) Ltd.,vs., ITO; [2010] 310 ITR 561 (SC) CIT vs. Kelvinator India Ltd., have settled the issue that a reopening based on such vague reasons, without even indicating the corresponding quantification of the income sought to be re-assessed, is invalid in law. We accordingly, quash the impugned reopening itself in these clinching facts and circumstances which render all other pleadings as infructuous. Ordered accordingly.

6. This assessee's appeal ITA.No.95/Coch/2017 is allowed in above terms and its stay application SA.No.19/Coch./2017 has become infructuous. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 7th November, 2024

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Cochin ; Dated : 7th November, 2024.

VBP/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr.CIT Concerned.
4. The Sr.DR, ITAT, Cochin.
5. Guard File.

Assistant Registrar
ITAT, Cochin