

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

Before Shri Inturi Rama Rao, Accountant Member

ITA No. 382/Coch/2024
(Assessment Year: 2017-18)

Muthuvelan Sons Pvt. Ltd. English Church Road Palakkad 678001 [PAN: AABCM6598B]	vs.	The Income Tax Officer Ward -1, Palakkad
(Appellant)		(Respondent)

Appellant by:	Shri Hareesh C.R., CA
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	29.10.2024
Date of Pronouncement:	18.11.2024

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-1, Kolkata [CIT(A)] dated 27.03.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the assessee is a private limited company incorporated under the Companies Act. It is engaged in the business of running a Bar attached hotel under the name and style of "Hotel Indraprastha". The return of income for AY 2017-18 was filed on 20.01.2018 declaring a loss of Rs. 68,72,780/-. Against the said return of income assessment was completed by the Assessing Officer (AO) vide order dated 09.12.2019 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) as a total income of Rs. 9,00,000/-. While doing so the AO made addition of Rs. 9,00,000/- as unexplained money being cash deposits made in account

No. 0847261000382 by disbelieving the availability of cash as on 08.11.2016 by observing that the assessee could not substantiate availability of cash.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide the impugned order confirmed the action of the AO.

4. Being aggrieved, the assessee is in appeal before the Tribunal. It is submitted that the assessee has discharged the onus lying upon it to prove the availability of cash by producing the cash book, copy of cash book was also filed before me. It is submitted that the orders of the lower authorities were unreasonable and arbitrary and therefore be remanded to the AO for de novo disposal in accordance with law.

5. On the other hand, the learned Sr. DR has not raised any serious objection to the submissions of the learned A.R.

6. I heard both the sides. The only issue that arises for my consideration is whether or not the AO is justified in making the addition of unexplained money being the cash deposits during the demonetisation period. Undisputedly, the assessee, in an attempt to discharge the onus lying upon it, produces the cash book proving the availability of cash as on 08.11.2016. The AO, without examining the cash book, merely jumped into a conclusion that the cash book is prepared to serve the purpose of the assessee. The AO ought to have examined each and every entry made in the cash book and the corresponding income having been accepted, it is not open to the AO to reject the cash book without giving any cogent reason. Even the CIT(A) ought to have applied his mind independently to the facts of the case. The appeal could not be dismissed merely on the basis of presumptions and surmises. Therefore, in order to meet the ends of justice I am of the considered opinion that the matter is to be remanded to the AO for de novo disposed in accordance with law after affording opportunity of being heard to the assessee.

7. In the result, the appeal stands partly allowed.

Order pronounced in the open court on 18th November, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 18th November, 2024

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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