

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

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.21/Coch/2024 : Asst.Year 2016-2017

Sri.Jamal Mohamed Abdul Sathar J.J.Auditorium Kallambalam – 695 605. PAN : AJWPS0238H.	v.	The Deputy Commissioner of Income-tax, International Taxation, Trivandrum.
(Appellant)		(Respondent)

Appellant by : Sri.S.Rajeev, Advocate

Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 23.08.2024	Date of Pronouncement : 07.11.2024
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ORDER

Per Bench :

This assessee's appeal in ITA No.21/Coch/2024 for assessment year 2016-2017 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1055626865(1) dated 30.08.2023, in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

Heard both the parties. Case file perused.

2. The assessee has raised the twin substantive grounds challenging long term capital gains of Rs.18,06,650 and section 69A unexplained money addition of Rs.21,85,000, respectively. Both the lower authorities have treated the asset(s) sold relevant to the previous year as capital asset(s) within the meaning of sec.2(14) being not in the nature of agricultural income. The assessee has not able to rebut the

said clinching finding throughout right from assessment till date. That being the case, we find no merit in the assessee's instant former substantive ground. Rejected accordingly.

3. We next take up sec.69A unexplained money addition of Rs.21,85,000. Suffice to say, it has already come on record that the assessee has indeed transferred its capital asset in the previous year, and therefore, the only reasonable inference that could be drawn is that the addition amount herein *prima facie* formed on-money in cash component over and above stamp price in light of [1994] 49 ITD 43 (Bom.) (TM) Mrs. Malini R Rele vs. ITO. The fact also remains that the assessee has not been able to explain that the entire cash sum formed her on-money only. We thus deem it appropriate that a lump sum relief of Rs.8 lakhs out of Rs.21.85 lakhs in issue would be just and proper in these peculiar circumstances. The impugned addition is confirmed to this extent of Rs.13.85 lakhs in other words, with a rider that the same shall not be taken as a precedent in any other case. Ordered accordingly.

4. In the result, the assessee's appeal ITA.No.21/Coch/2024 is partly allowed in above terms.

Order pronounced in the open court on this 07th day of November, 2024.

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Cochin ; Dated : 07th November, 2024.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin