

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN

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

ITA.Nos.409, 410, 411 & 412/Coch./2020  
**Assessment Years - 2012-2013, 2013-2014, 2015-2016 & 2016-2017**

The Income Tax Officer, Ward-1 & TPS, 2 <sup>nd</sup> Floor, City Plaza, West Nada, GURUVAYUR. District THRISSUR KERALA.	vs.	Shri Panakkal Kumaran Jayaprakashan, Panakkal House, Valappad Beach, VALAPPAD – 680 567. THRISSUR DISTRICT. KERALA. PAN AFRPJ2700A
(Appellant)		(Respondent)

Revenue by :	Shri Sathish John Kanichai, CA
Assessee by :	Shri DR. S. Pandian, CIT-DR

Date of Hearing :	20.08.2024
Date of Pronouncement :	07.11.2024

**ORDER**

**PER BENCH :**

These Revenue's four appeals I.T.A.Nos.409, 410, 411 & 412/Coch./2020, for assessment years 2012-2013, 2013-2014, 2015-2016 & 2016-2017, arise against the as many orders of CIT(A), Thrissur in Appeal Nos.ITA.375, 376, 377/17-18 & ITA.701/19-20, all dated 12.08.2020, in allowing the appeals of the assessee, in proceedings u/sec.144

r.w.s.147 and sec.144 of the Income Tax Act, 1961 (in short "the Act"); case-wise, respectively.

Heard both the parties. Case files perused.

2. We advert to the Revenue's "lead" appeal ITA.No.409/Coch./2020 raising the following substantive grounds :

1. *"The order of the learned Commissioner of Income Tax(Appeals) is against the facts and circumstances of the case.*
2. *The learned CIT (A) erred in concluding that all cash credits/deposits are nothing but collection made during lending business merely relying upon the fact that the assessee was engaged in the business of money lending.*
3. *The learned CIT (A) erred in appreciating the fact that the assessee failed to submit depositor's name, genuineness and creditworthiness of deposit along with entries in the day book, details of loan and cash flow*

*statement despite giving opportunities during assessment proceedings and at the time when the case was remanded to assessing officer during the appellate proceedings.*

- 4. The learned CIT (A) erred in appreciating the fact submitted by Assessing Officer in the remand report that the assessee could only submit bank statements and kurie statements to establish the source of deposits, added as unexplained investments u/s 69.*
- 5. The learned CIT(A) failed to appreciate the fact that intention of section 69 of Income tax Act is to detect the tax evasion in respect of clandestine investments made by the assessee, which are not recorded in the books of accounts when assessee does not offer any explanation or explanation offered by him is not satisfactory.*
- 6. The learned CIT(A) deleted additions made by the assessing officer stating that Assessing officer could not bring on record any cogent evidence contrary to the submission of the assessee. In this regard, the learned*

*CIT(A) erred in appreciating the fact in remand report submitted by the Assessing Officer that the assessee could submit only bank statements and kurie statements, which are inadequate to prove the genuineness of deposits, added as unexplained investments u/s 69 of Income Tax Act 1961.*

*7. Even though the learned CIT(A) has placed reliance on decision of Supreme Court in the case of Smt. Srilekha Banerjee Vs CIT, the learned CIT(R) failed to appreciate the findings in the order that if the explanation regarding the source of income is unconvincing the department can reject and draw the inference that the amount represents income.*

*8. The learned CIT(A) ought to have placed reliance on Hon'ble Supreme court Verdict in No 2911TR 278(SC) in Mohanakala case before deleting the additions made u/s 69 of Income Tax Act.*

9. In view of the above grounds relief given by learned CIT(A) in the following grounds are not as per the provisions of the law.

a) Deposits in the bank accounts amounting to Rs.1,14,53,835/-

b) Deposits in chity/kurie amounting to Rs.33,02,526/- (c) Investment in the firm M/s Indrapuri Jewellery amounting to Rs.54,00,000/-

c) Investment in landed property amounting to Rs.22,18,000/-

d) Interest on capital and remuneration to partners amounting to Rs.13,958/-

10. For these and other grounds that may be urged at the time of hearing, it is requested that the order of the CIT(A) may be set aside and that of the Assessing Officer restored.”

3. It emerges during the course of hearing that the Assessing Officer had completed his sec.144 r.w.s.147

assessment in assessee's case on 26.12.2017 *inter alia* making various addition(s) u/sec.69 of the Act, in the nature of unexplained investment made in the relevant previous year.

4. Learned CIT-DR next takes-us to the learned CIT(A)'s impugned lower appellate discussion in page-6 para-8 onwards wherein the assessee had filed his letter dated 17.07.2019 explaining the alleged source of his investments forming subject matter of sec.69 addition. He then refers to page-9 para-9 in the CIT(A)'s impugned order wherein a remand report was called from the Assessing Officer on 08.05.2019 which came to be submitted on 14.08.2019 again reiterating the very addition(s). The assessee thereafter filed his rejoinder on 16.10.2019 which prompted the learned CIT(A) to call for a fresh remand report. The Assessing Officer submitted his yet another remand report on 01.01.2020 again reiterating the impugned addition(s). Learned counsel then submits as per para-9.6 pag-14 of the CIT(A)'s order that the assessee

submitted his another rejoinder as well which form the basis for the CIT(A) to treat the impugned investments as duly explained. This clinching discussion, as emerging from para-10.1 onwards indicates that the learned CIT(A) had taken all the relevant facts pleaded in the assessee's rejoinder on the face value than giving a clear-cut finding regarding source thereof as explained or not in compliance to sec.250(6) of the Act requiring him to frame points of determination followed by a detailed adjudication thereupon. We wish to make it clear in otherwords that the assessee's alleged source of the impugned investments have nowhere been verified once the Assessing Officer's twin remand reports had not found any substance in his corresponding explanation(s).

5. Faced with this situation and in the larger interest of justice, we deem it appropriate to restore the Revenue's instant "lead" appeal ITA.No.409/Coch./2020 seeking to revive the foregoing sec.69 unexplained investments addition(s) back to the Assessing Officer for

his afresh appropriate adjudication as per law, with a rider that it shall be the assessee's risk and responsibility only to plead and prove all the relevant facts within three effective opportunities of hearing in consequential proceedings. This Revenue's instant first and foremost "lead" appeal ITA.No.409/Coch./2020 succeeds for statistical purposes in above terms. Ordered accordingly.

6. Same order to follow in the Revenue's latter three appeals ITA.Nos.410, 411 & 412/Coch./2020 since raising identical substantive grounds only.

7. To sum-up, these Revenue's instant four appeals ITA.Nos.409, 410, 411 & 412/Coch./2020 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 this 7<sup>th</sup> day of  
November, 2024.

Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER

Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER

Cochin ; Dated : 7<sup>th</sup> November, 2024.

VBP/-

Copy to :

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

Asst.Registrar/ITAT, Cochin