

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 246/Coch/2023  
Assessment Year: 2011-12**

Institute Management Committee  
ITI Kuzhalmannam  
Perumkunnam Post  
Kuzhalmannam, Palakkad 678702  
[PAN: AAAAI3083N]

..... Appellant

Vs.

Asst. Commissioner of Income Tax  
Palakkad

..... Respondent

Appellant by: Hemanth P., CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 19.11.2024  
Date of Pronouncement: 29.11.2024

**ORDER**

**Per: Inturi Rama Rao, AM**

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 01.02.2023 for Assessment Year (AY) 2011-12.

2. Brief facts of the case are that the assessee trust is formed with the object of managing the affairs of the Industrial Training Institute run by government private partnership. The return of income of AY

2011-12 was filed on 03.11.2021 declaring income of Rs. 10,17,560/- . The said return of income was processed u/s. 143(1) of the Income Tax Act, 1961 (the Act) vide intimation dated 07.03.2012 assessing the total income at maximum marginal rate of tax under the provisions of section 167B of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO by holding that the assessee trust is not covered by any exemption provided under the provisions of section 167B of the Act.

4. Being aggrieved, the assessee is in appeal before us in the present appeal.

5. Before us, the assessee raised 10 grounds of appeal. Ground of appeal Nos. 1 to 9 are dismissed as not pressed during the course of hearing. The only ground of appeal surviving is ground of appeal No. 10, which challenges the action of the lower authorities applying maximum marginal rate of tax to the total income. It is contended before us that the assessee is a society incorporated under the provisions of the Societies Act, therefore, it is submitted that provisions of section 167B have no application. The learned A.R. further submitted that this is beyond the scope of adjustment u/s. 143(1) of the Act.

6. On the other hand, the learned Sr. DR submitted that the orders passed by the lower authorities are reasoned and requires no interference.

7. We have heard the rival contentions of both the parties and perused the material available on record. We find that the only issue in the present appeal is where in the facts and circumstances of the case, the provisions of section 167B of the Act can be applied. The provisions of this section provides that where the individual shares of the members of an association of persons or body of individuals is indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate. It is contended by the learned A.R. that the assessee is a society incorporated under the provisions of Societies Registration Act, 1860 and therefore the provisions of section 167B have no application. In the absence of evidence on record, we are of the considered opinion that the matter requires remand to the file of the AO/CIT(A) for due verification of whether the assessee is registered under the Society Registration Act or otherwise. If the society is registered under the Society Registration Act, 1860, obviously the provisions of section 167B have no application. With the above direction the appeal stands allowed for statistical purposes.

Order pronounced in the open court on 29<sup>th</sup> November, 2024

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated:29<sup>th</sup> November, 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