

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

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

**ITA Nos. 471 to 473/Coch/2023
& SA Nos. 221 to 223/Coch/2023
Assessment Years: 2016-17 to 2018-19**

Sai Medical Centre
Payyalore Junction
Kollengode, Palakkad 678506
[PAN: ABFFS4856A]

..... Appellant

Vs.

The Income Tax Officer
Ward -5 & TDS, Palakkad

..... Respondent

Appellant by: ----- None -----
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 20.11.2024
Date of Pronouncement: 29.11.2024

ORDER

Per: Inturi Rama Rao, AM

These appeals filed by the assessee are directed against the orders of the National Faceless Appeal Centre, Delhi [CIT(A)] all dated 26.04.2023 for Assessment Years (AYs) 2016-17 to 2018-19.

2. Since identical facts are involved, these appeals are heard together and disposed of vide this common order.

3. Brief facts of the case are that the assessee is a partnership firm engaged in the business of rendering medical services. The Income Tax Officer, Ward – 5 & TDS, Palakkad (hereinafter the ‘TDS Officer’) on verification of the details found that the assessee firm had not deducted TDS on payments made for AMC, Consultation charges, Repair & maintenance, Salary, Interest and Accounting Charges. Accordingly the TDS Officer issued show cause notice on 20.01.2019 calling upon the assessee firm to explain as to why the assessee should not be treated as an assessee in default for non deduction of TDS on the above payments. The assessee had duly furnished the details called for. On verification of the details filed, the TDS Officer held that the assessee is an “assessee in default” demanded tax and interest of Rs. 5,22,216/-, Rs. 6,26,372 & Rs. 7,84,716/- for Financial Years 2015-16, 2016-17 & 2017-18, respectively vide separate orders dated 11.03.2020 passed u/s. 201(1A) of the Income Tax Act, 1961 (the Act) .

4. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order considered the explanation and evidence filed by the assessee, disposed of the appeal by one hand remitted the matter for verification to the TDS Officer and on the other hand dismissed the appeal, which means that the CIT(A) had not applied his mind properly resulting an ambiguity in the order passed by him.

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

6. When the appeal was called none appeared on behest of the assessee nor there any application for adjournment. Therefore, we proceed to dispose the appeal after hearing the Id. Sr. DR.

7. From a perusal of the order of the learned CIT(A), it is evident that the CIT(A) had not applied his mind properly in the matter resulting in an ambiguity in the order. Therefore, in the interest of justice the matter is remanded back to the file of the CIT(A) for de novo disposal in accordance with law after affording reasonable opportunity of hearing to the assessee.

8. Since the quantum appeal of the assessee is disposed of, the stay application becomes infructuous, hence dismissed.

9. In the result, the appeal and the stay application filed by the assessee are dismissed.

Order pronounced in the open court on 29th November, 2024

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 29th 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

Assistant Registrar
ITAT, Cochin