

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

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

**ITA No. 622/Coch/2023
& SA No. 210/Coch/2023
Assessment Year: 2012-13**

Lauly Abraham
Johnson Villa, Neyyassery
Thodupuzha, Idukki 685585
[PAN: AQCPA7534M]

..... Appellant

Vs.

The Income Tax Officer
(International Taxation)
C.R. Building, I.S. Press Road
Kochi 682018

..... Respondent

Appellant by: Ms. Krishna K., Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 21.11.2024
Date of Pronouncement: 09.12.2024

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-12, Bengaluru dated 10.07.2024 for Assessment Year (AY) 2012-13.

2. Brief facts of the case are that the assessee is an individual and a non-resident Indian. The return of income for AY 2012-13 was not filed under the provisions of section 139 of the Income Tax Act, 1961 (the Act). Subsequently, based on the information that the assessee made cash deposits of Rs. 14,20,000/-, the Income Tax Officer (International Taxation), Kochi (hereinafter “the AO”) was of the opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 of the Act was issued on 31.03.2019. The assessee neither complied with the notice u/s. 148 nor notice u/s. 142(1) of the Act. In the circumstances the AO was constrained to complete the assessment *exparte*. The AO treated a sum of Rs. 4,80,000/- as explained being the amount receivable, balance of Rs. 9,40,000/- was brought to tax. The AO also brought to tax the interest earned of Rs. 38,029/- from Axis Bank based on the information contained in Form 26AS.

3. Being aggrieved, an appeal was filed before the CIT(A) contending that the cash deposits were made out of the sale consideration received in cash though the sale deed mentioned the consideration only Rs.4,80,000/-. The learned A.R. further contended that the assessment proceedings were completed without adverting to the submission, made by the assessee. However, the learned CIT(A) dismissed the appeal by holding that the assessee had failed to discharge the onus of proving the source of cash deposits of Rs. 9,40,000/-.

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

5. We have heard the rival contentions of both the parties and perused the material available on record. We had carefully perused the impugned order

passed by the learned CIT(A). The learned CIT(A) without advertng to the submissions and contentions raised, dismissed the appeal by merely holding that the assessee had failed to discharge the onus of proving the source of cash deposits. There is nothing in the order of the CIT(A) to show that he has made efforts to verify the assessment records to deal with the contentions of the assessee that the submissions filed by the assessee had not been adverted to the AO. Thus, it clearly shows that the CIT(A), without independent application of mind, dismissed the appeal exparte without dealing on merits. Therefore, in order to meet the ends of justice, we remand the matter back to the file of the CIT(A) for de novo disposal in accordance with law after affording an opportunity of being heard to the assessee.

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

7. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay application is dismissed.

Order pronounced in the open court on 9th December, 2024

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 9th December, 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