

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.190/Coch/2024: Asst.Year 2017-2018

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| Aswas Community Medical Services, 10/1550, Sha Building Vattiyoorkavu Service Trivandrum – 695 013. PAN : ABHFA6357Q. | v. | The Income Tax Officer Ward 1(1) Trivandrum. |
| (Appellant) | | (Respondent) |

Appellant by :Sri.Surendranath Rao, CA
Respondent by :Smt.Leenalal, Sr.AR

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| Date of Hearing : | Date of Pronouncement : 30.12.2024 |
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the learned Commissioner of Income-tax (Appeals) dated 11th January, 2024 and it relates to the assessment year 2017-2018, having DIN & Order No.ITBA/NFAC/S/250/2023-24/1059627256(1).

2. Brief facts of the case are that the assessee is a partnership firm and engaged in the business of medical supply. For the impugned assessment year, the assessee has not filed any return of income. Thereafter notice u/s.148 of the Act was issued to the assessee on 26th March, 2021 on the basis of the information came into the possession of the Assessing Officer, revealing that the assessee has deposited

huge amount in cash after demonetization period. However, the assessee could not file any return of income in response to the notice u/s.148 of the Act. Thereafter, the AO issued notice u/s.142(1) of the Act and directed the assessee to comply with the notice again. However, the assessee only submitted his bank account statement and could not file any return of income. At last, the AO framed the assessment and assessed the entire cash deposit u/s.69A of the I.T.Act.

3. Aggrieved with the order of the AO, the assessee preferred an appeal before the learned CIT(A) and contended that the assessee could not be able to file the return in response to notice of 148, as there was some technical glitche in the Income Tax Portal. The assessee also pointed out that the AO is not correct in treating the entire deposits as unexplained cash. The ld.CIT(A) dismissed the appeal of the assessee on the ground that the assessee has only filed the bank statement without any supporting evidences.

4. Now the assessee has come up in appeal before us and contended that it is settled position of law that the entire cash deposits of the current account of the assessee firm cannot be taxed u/s.69A of the Income-tax Act. The assessee also undertook to file documentary evidences before the AO and craved for one more opportunity before the AO.

5. The learned Departmental Representative relied upon the orders of the authorities below.

6. After considering the rival submissions and perusing the material available on record, we are of the view that in the interest of justice one more opportunity to be given to the assessee because it is the settled position of law that the entire cash deposits of the current account of the assessee firm cannot be treated as unexplained cash credits. Therefore, we restore the matter to the file of the AO for deciding afresh in accordance with law. Needless to say that the assessee may be given proper opportunity of being heard.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 30th day of December, 2024.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 30th December, 2024.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin