

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 545/Coch/2024
Assessment Year: 2017-18**

Lekha Sreekumar Appellant
Karalil House, Vallikunnam P.O.
Mavelikara, Alappuza 690501
[PAN: ALEPL6532F]

vs.

The Income Tax Officer Respondent
Ward - 5, Thiruvalla

Appellant by: Shri R. Krishnan, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 05.02.2025
Date of Pronouncement: 21.02.2025

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 28.03.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that that the appellant is an individual. No regular return of income for AY 2017-18 was filed. The Income Tax Officer, Ward-5, Thiruvalla (hereinafter called "the AO"), based on the information that the appellant made cash deposit during demonetisation period in SBN of Rs. 10,00,000/-, issued notice u/s. 142(1) of the Income Tax Act, 1961 (the Act) calling upon the appellant to file return of

income. The appellant had not complied with the said notice. In the circumstances the AO was constrained to pass best judgement assessment bringing to tax the cash deposit of Rs. 6,75,000/- as unexplained money of the appellant rejecting the explanation of the assessee that out of the said sum of Rs. 4,00,000/- belongs to the appellant's husband who was NRI for the last 15 years and a sum of Rs. 1.3 lakhs represents accumulated saving of the assessee and Rs. 2.2 lakhs represents money of father-in-law accumulated from pension. The AO made addition on Rs, 25,000/- by accepting partly the explanation of the appellant that Rs. 1.3 lakhs was made out of accumulated savings. The appellant also submitted that out of Rs. 10,00,000/-, Rs. 2,50,000/- represents advance received for sale of immovable property. The said explanation was rejected by holding that the sale consideration was received through RTGS transfer and no cash transaction was involved.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

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

5. It is submitted that the appellant, out of the amount received on sale of immovable property, Rs. 25,000/- was received through RTGS on 11.04.2016. The amount was immediately withdrawn and kept at home. The lower authorities have failed to consider the withdrawals of this money from the bank account. As regards to the sum of Rs. 4,00,000/-, it is submitted that this amount represents savings of her husband, who was an NRI to meet the medical emergency of his parents suffering from

paralysis. As regards to addition of Rs. 25,000/- he submits that in view of smallness of amount the addition may be deleted.

6. On the other hand, the learned Sr. DR placed reliance on the orders of the lower authorities and submits that the orders passed by the lower authorities are reasoned one and based on evidence and no interference is called for.

7. I heard the rival contentions of both the parties and perused the material available on record. The issue in the present appeal relates to whether the source of cash deposits made during demonetisation period can be treated as explained in the facts and circumstances of the case. The undisputed facts of the case are that the appellant made cash deposit in SBN on 10.11.2016 in Sate Bank of India, Pallikkal branch. Out of the total deposit of Rs. 10,00,000/- the AO treated a sum of Rs. 76,75,000 /- as unexplained money of the assessee. While doing so the AO had not accepted the explanation of the appellant that a sum of Rs. 2,50,000/- was received through RTGS on sale of immovable property on 11.01.2016 by holding that there was no cash withdrawals. This finding is contrary to the material available on record. During the course of hearing the learned A.R. filed a copy of the statement of SBI, Vallikunnam branch A/c No. 00000032647396862 from which it is clear that the sum of Rs. 2,50,000/- deposited on 11.07.2016 was withdrawn before 23.08.2016. Similarly there were withdrawals during the period 07.05.2016 to 28.06.2016 to the extent of Rs, 53,000/-. Thus, there was a total withdrawal from the said account to the extent of Rs.3, 30,341/- out of Rs. 1,05,000/- considered by the AO for deposit. Therefore, the AO should have also treated the

balance Rs. 1,20,000/- as available for deposit. Thus, the AO was not justified in rejecting the explanation of the assessee that Rs. 2,50,000/- received through RTGS was utilised for making subsequent deposit during the demonetisation period. Accordingly, I direct the AO to delete the addition of Rs. 2,50,000/-. As regards rejection of the explanation that the sum of Rs. 4,00,000/- belong to her husband, who was an NRI for 15 years and kept at home to meet medical emergencies of his parents cannot be ruled out without any evidence to the contrary and the addition of Rs. 25,000/- can be deleted in view of smallness of the amount as it cannot be said that the appellant is not capable of saving Rs. 25,000/-.

8. In the result, the appeal filed by the assessee stands allowed.
9. Order pronounced in the open court on 21st February, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 21st February, 2025

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