

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

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 793/Coch/2023

Assessment Year : 2017-18

Smt. Vijayarani Purushothaman, Bridge town apartments, Flat 9A, Vandipetta, West Nadakavu, Kozhikode – 673 011. PAN: AOJPP3858C	Vs.	The Income Tax Officer, Ward – 1(3), Kozhikode.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Smt. Leena Lal, Snr. AR

Date of Hearing	:	19-12-2024
Date of Pronouncement	:	11-03-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 18/09/2023 in respect of the A.Y. 2017-18 and raised the following grounds:

“1. That the Order of the learned Commissioner of Income Tax (Appeals) in so far it is prejudicial to the interests of the appellant, is bad in law and against the facts and circumstances of the case.

2. That the learned lower authorities erred in law and on facts in making an addition of Rs. 1,20,17,400 under section 69 of the Act as unexplained investment.

3. That the learned lower authorities erred in law and on facts in not considering the fact that the cash withdrawals are the sources for cash deposits made in the bank accounts.

4. That the learned lower authorities erred in law and on facts in holding that the appellant does not have sufficient cash balance for making cash deposits and therefore, they are treated as unexplained investment u/s. 69 of the Act.

5. That the learned Commission of Income Tax (Appeals) erred in law and on facts in not considering the fact that the appellant is only a secondary name of the bank account and therefore, the entire addition cannot be made in the hands of the hands of the appellant.

6. That the learned lower authorities erred in law and on facts in not considering the fact of health conditions of the appellant's husband, divorce proceedings of the appellant's son and other issues of the appellant's daughter as the reasons for the cash withdrawals.

7. The learned Commissioner of Income Tax (Appeals) erred in law and on facts in levying surcharge u/s 11513BE of the Act for the transaction made before 15.12.2016.

Each of the above grounds are without prejudice to one another and the appellant craves leave of the Hon'ble income Tax Appellate Tribunal. Bangalore to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal."

2. The brief facts of the case are that the assessee filed her return of income on 21/03/2018 declaring the income under the head income from house property and income from other sources. Thereafter the return was selected for limited scrutiny through CASS for verifying the cash deposits and transactions made in property. Notices u/s. 143(2) and 142(1) of the Act were issued and the assessee was asked to provide all the details about her bank account as well as the details of properties purchased / sold during the year and also to explain the source of cash deposits. The AO also requested the assessee to file the cash flow statements. The assessee in

reply, filed the bank account details and the statements to show that the cash withdrawals were deposited into the bank account. The assessee had not filed the cash flow statement for the period from 01/04/2014 to 31/03/2017 but again submitted that the cash withdrawals were again deposited into their bank account. The AO also sought for the details about the property sold and purchased during the assessment year but the assessee filed the details of the purchases made by her during the assessment year apart from that, the assessee has also submitted various details about the sale and the purchases of the properties in their reply. The AO not accepted the case of the assessee and made an addition of Rs. 1,20,17,400/- as unexplained investment u/s. 69 of the Act and also made an addition under long term capital gain. As against the said order, the assessee filed an appeal before the Ld.CIT(A).

3. The assessee filed their detailed written submissions and submitted that the assessee had explained the source for the purchase of her property and also the sale of property and also produced the copy of the registered sale deed.

4. The Ld.CIT(A) had dismissed the appeal filed by the assessee and therefore the present appeal has been filed by the assessee before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that the Ld.CIT(A) being a quasi judicial authority had not discussed the issue in detail but only extracted the findings given in the assessment order and dismissed the appeal, which is not correct. The Ld.AR further submitted that if the Ld.CIT(A) had considered the issue based on the written submissions as well as the documents filed in support of the said submissions, he could have allowed the appeal filed by the assessee and therefore prayed to allow the appeal filed by the assessee.

6. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.
7. We have heard the arguments of both sides and perused the materials available on record.
8. We have perused the order of the Ld.CIT(A) and he gave his finding from paragraph 6 but upto para 6.3.6 he extracted the findings given by the AO and gave his finding in para no. 6.3.7 and 6.38. in a nutshell which we are reproducing herewith.

“6.3.7 I have carefully perused the matter. in view of the detailed analysis of the AO in assessment order dated 29/12/2019 in respect of the calculation of LTGC on property sale and in the absence of proper details/proof of expenses towards such sales, the calculation of capital gains as carried out by AO is upheld and Ground No. 1 is accordingly dismissed.

6.3.8 So far as the addition u/s 69 in respect of cash deposits into bank account is concerned, the AO has in detail brought out the inconsistencies in the appellant's explanation and also given reasons in detail why such explanation is not acceptable. The Assessing Officer in his assessment order has stated that-

“The reply of the assessee has been considered. No supporting evidence whatsoever has been provided to show that the claim of the assessee is true. The claims made in the above reply are repeated ones, which have been already discussed and not found satisfactory as detailed in the abovementioned paras. The assessee has stated that entire cash withdrawals were not for purchase of agricultural land, whereas in her earlier submissions, she had claimed that all the cash withdrawals was for keeping at home only. As already discussed above, the AR was asked to submit the explanation in writing through e-proceedings module, whatever he has informed during the hearing. The explanation was uploaded by the assessee on 18.12.2019, 19.12.2019 and 20.12.2019. which has been reproduced and discussed in aforesaid paras. The claims made by the assessee are not supported by any evidence. The assessee has not objected to the statement given by Sh. Sreejith K. her son. After analyzing the surrounding circumstances and applying

the test of human probabilities as detailed above, the explanation of the assessee has not been found satisfactory and hence rejected.”

6.3.9 In view of the above, the additions made by the AO on both counts are upheld and the appeal is dismissed.”

9. Therefore as rightly contended by the Ld.AR, the assessee had not discussed the issue in detail and not passed a reasoned order and therefore we are of the view that the order of the Ld.CIT(A) is a non-speaking order and on that basis the said order of the Ld.CIT(A) is liable to be set aside with the direction to Ld.CIT(A) to decide the appeal on merits and also by passing a speaking order after granting a reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 11th March, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 11th March, 2025.
/MS /

Copy to:

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|---------------|---------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin