

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 246/Coch/2024
Assessment Year: 2010-11**

Puthiri Vincent Thomas Appellant
XXIII/249 A, Puthiri House
Thodupuzha P.O., Idukki 685584
[PAN: AGWPV7187P]

vs.

The Income Tax Officer, Ward-2, Thodupuzha Respondent

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

Date of Hearing: 12.03.2025
Date of Pronouncement: 27.03.2025

ORDER

This appeal filed by the assessee is directed against the order of the Addl/Jt. Commissioner of Income Tax (Appeals)-4, Kolkatta [CIT(A)] dated 29.01.2024 for Assessment Year (AY) 2010-11.

2. Brief facts of the case are that the appellant is an individual deriving income from house property. The return of income for AY 2010-11 was filed on 30.07.2010 disclosing income at Rs. 3,07,480/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-2, Thodupuzha (hereinafter called "the AO") vide order dated 25.03.2013 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 5,46,982/-. While doing so, the

AO made addition of Rs.2,39,502/- under the head 'income from house property'.

3. The factual background leading to the above addition is that the appellant jointly owned a commercial building along with his wife and the same was apportioned to four portions out of which three portions were transferred to his two sons by executing settlement deeds. However, subsequently by power of attorney the two sons and daughter-in-law have given all the rights and liabilities in the share of the building to the assessee. However, in the return of income the income attributable to his share in the undivided portion of the building only has been shown. The AO, while computing the income under the head 'income from house property' assessed 50% of income from property. Thus he made addition of Rs. 2,40,000/-.

4. Being aggrieved, an appeal was filed before the CIT(A) contending that the entire property was settled to two sons and daughter-in-law. The share of income derived from this was offered to tax in the hands of the two sons and daughter-in-law. The power of attorney was executed only for the purpose of managing the property. Therefore, assessing 50% of the rental from the property in the hands of the appellant amounts to double addition. However, the CIT(A) dismissed the appeal.

5. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

6. I heard the rival contentions of both the parties and perused the material available on record. From the material on record it is clear that the property was settled in favour of two sons and daughter-in-law. It is not the case of the AO that provisions of section 64 have application to the facts of the present case. There is no material on record to indicate that the power of attorney was executed transferring back the title in the property in favour of the appellant. In the circumstances, it cannot be disputed that the power of attorney was executed only for the purpose of managing the property and, therefore, the AO was not justified in making the addition under the head 'income from house property'. Accordingly I direct the AO to delete the addition of Rs. 2,40,000/-.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 27th March, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th March, 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