

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 879/Coch/2024
Assessment Year: 2015-16**

Thaliath Jacob Jose Appellant
VI/5, Thaliath Exports, Synagogue Lane
Jew Town, Kochi 682002
[PAN: AATPT1794R]

vs.

The Income Tax Officer Respondent
Corporate Ward-2(1), Kochi

Appellant by: Shri Joyel George, 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 National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 07.08.2024 for Assessment Year (AY) 2015-16.

2. Brief facts of the case are that the appellant is an individual. No return of income for AY 2015-16 was filed by the appellant. Subsequently, based on the information that the appellant made cash deposit in the bank account to the extent of Rs. 10,40,000/- and sold immovable property for a consideration of Rs.80,00,000/- during the financial year 2014-15. The Income Tax Officer, Corporate Ward-2(1),

Kochi (hereinafter called "the AO") reopened the assessment by issuing notice u/s. 148 of the Income Tax Act, 1961 (the Act) . In response to the notice u/s. 148 the appellant filed return of income on 27.05.2022 declaring total income of Rs. 1,30,380/-. Against the said return of income, the assessment was completed by the AO vide order dated 23.02.2024 passed u/s. 147 r.w.s144B of the Act at a total income of Rs. 38,42,183/-. While doing so, the AO, while computing the long term capital gains allowed the cost of construction and improvement of Rs. 30,00,000/- as against the claim of Rs. 42,28,750/- in the absence of any proof filed by the assessee.

3. Being aggrieved, an appeal was filed before the CIT(A). During the course of proceedings before the CIT(A) the appellant filed a valuation report in support of the cost of construction of Rs. 42,28,750/-. The CIT(A) rejected the same by holding that the appellant had failed to submit the bills and vouchers in support of the claim and accordingly dismissed the appeal.

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

5. The learned counsel for the assessee contended that the AO without considering the indexation of the cost of acquisition has computed the capital gains. It is further submitted that the appellant had filed additional evidence before the CIT(A) in support of the cost of improvement, etc. The CIT(A), without considering the additional evidence, had merely confirmed the addition made by the AO.

6. On the other hand, the learned Sr. DR placing reliance on the orders of the lower authorities submitted that no interference is called for.

7. I heard the rival contentions of both the parties and perused the material available on record. The short issue that arises for my consideration is whether the computation of capital gains as computed by the AO as confirmed by the CIT(A) is correct in law. On a mere perusal of the assessment order it is clear that the AO had restricted the cost of construction to Rs. 30,00,000/- as against the total claim of Rs. 42,28,750/-. During the course of proceeding before the CIT(A), the appellant had filed additional evidence in support of incurring cost of improvement, etc. The CIT(A), without admitting the additional evidence and without adverting to the statement of facts, merely confirmed the action of the AO . Therefore, in order to meet the ends of justice, I remand the matter back to the CIT(A) for de novo consideration in accordance with law after affording reasonable opportunity of hearing to the appellant.

8. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

9. 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

By Order

Assistant Registrar
ITAT, Cochin