

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

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.528/Coch/2023
Assessment Year: 2015-16

Panakkal Kumaran Jayaprakasan Panakkal House Valappad Beach Valapad Thrissur 680 567 Kerala PAN NO : AFRPJ2700A	Vs.	CIT(A) Thrissur
APPELLANT		RESPONDENT

Appellant by	:	N o n e
Respondent by	:	Shri Sanjit Kumar Das, CIT-DR.

Date of Hearing	:	19.02.2025
Date of Pronouncement	:	24.04.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the CIT(A), Thrissur dated 12.08.2020 for the AY 2015-16 passed u/s 250 of the Income Tax Act, 1961 (in short "The Act").

2. The assessee has raised the following grounds of appeal:

- 1) The Order of the learned Commissioner of Income tax (Appeals) is against the facts and circumstance of the case as per order dated 12-8-2020 and Order giving effect of Assessing officer dated 21-10-2020 and subsequent rectification to the Order giving effect dated 23-5-2023.
- 2) Commissioner of Income tax (Appeals) order allowing all the grounds filed by the assessee. However, the Assessing Officer , in his Order giving effect dated 21-10-2020 and also subsequent rectification to the Order giving effect dated 23-5-2023 didn't allow the amount of Rs. 1,01,07,174/- as the Commissioner of Income tax (Appeals) has not ordered particularly of these addition and it is sustained. The details of impugned order of Assessing officer is as under:
The total assessed income was Rs. 8,12,62,587/- in which addition made on return of income is asunder:

1) Investment in property	Rs. 2,70,84,000/-
2) Unexplained credits in bank accounts	Rs. 4,19,86,530/-
3) Unexplained Investments in Kuri/chitty	Rs. 1,01,07,714/-

	Rs. 7,91,78,244

The Assessing officer in his Order giving effect dated 21-10-2020 allowed the additions of Rs. 6,90,70,530/- and not the Unexplained Investments in Kuri/Chitty of Rs. 1,01,07,714/- (vide para 12.1 and 12.2 of the Assessment order) as the CIT(A) didn't particularly mention in his order 12-08-2020 though he allowed all the grounds appealed. Also the unexplained cash deposits in Bank accounts of Rs. 4,19,86,530/- [Vide Para 11(i) to 11(vii) of the Assessment order] which was discussed along with the addition of Rs. 1,01,07,714/-, is allowed as it was accounted in the Books of account. Hence the addition of Rs. 1,01,07,714/- for which appeal in IncomeTax Appellate Tribunal.

- 3) Rs. 1,01,07,714/- invested in Kerala State Financial Enterprises Ltd and M/s. Hi Wealth Kuries Ltd (vide Para 12.1 and 12.2 of Assessment order), is the deposits made by the assessee from the deposits accepted by him during the course of his money lending business and also auctioning chitty from KSFE and utilising same in the assessee's business. The entire transaction is accounted in the books of accounts. The other deposits in the Bank which accounted in the Books of accounts were allowed by the Commissioner of Income tax

(Appeals). The most of the deposit is made through bank accounts and not cash deposits and operated through current accounts. The assessee accepted deposits from parties and interest is paid at 12%. The assessee is also conducting Kuri business in which subscribers were mainly family members and friends and payments are made mainly through bank accounts. These deposits were not made by self in the bank accounts which clearly shows it is not his own money. The entire credits through bank accounts which are accounted in the books accounts treated was also accepted by the The Assessing Officer, however, credit worthiness of the depositors was not proved resulted into the addition. In bank accounts there are many credits made from cash books or made by kuri customer payments during the business. These deposits also have to be verified each and every pai is peculiar argument made by the Assessing Officer. The assessee has given Source of source of money on the part of the assessee who is doing money lending business and kuri business is very difficult to run a business.

The assessee has shown his total income of Rs. 15,68,000/- for this assessment year which includes his money lending business. The investment and liability are also included in the accounts of the Moneylending business and this investment is not taken separately for addition. Therefore, the addition of Rs. 1,01,07,714/- is to be deleted.

The above grounds and other grounds as required at the time of hearing, it is requested that addition of Rs. 1,01,07,714/- is to be deleted.

3. Brief facts of the case are that the assessee is the proprietor of M/S. Krishna Finance, Triprayar and doing money lending business and kuries. He is also a partner in the firm M/s. Indrapuri Jewellery, Triprayar. A survey operation was carried out at the business premises of the assessee u/s. 133A of the Act. During the course of survey proceedings, it was found that the assessee has invested his unaccounted money in various immovable properties and other investments.

3.1 Further, during the course of assessment proceedings, the AO observed that total investment in landed property/advance given by assessee in his name and in the name of his wife during the relevant year is summarized at Rs. 2,70,84,000/- and in the absence of the proper explanation, the same is treated as deemed income of the assessee and added to the total income returned as per section 69 of the Act. Further, during the year, the assessee sold a jointly held land property of 6 acres 85 sq. meters and 3 acres 6 sq. meters for a total consideration of Rs.32,56,000/- along with Sri Thomas vide sale deed No. 1878/2014. The assessee has 3/4th share. The short term capital gain was worked out at Rs. 4,67,625/-. During the relevant financial year, credits in the bank accounts maintained by the assessee were found at Rs.4,19,86,530/- and treated the same as unaccounted income of the assessee. The assessee has also made investment in Kuri subscriptions for the period 1.4.2014 to 31.3.2015 amounting to Rs. 89,36,399/- and investment in M/s. Hi Wealth Kuries Limited a sum of Rs. 11,70,775/- during the relevant financial year totaling to Rs. 1,01,07,174/-.

4. Before us both the parties, fairly conceded that assessment order was passed u/s 144 of the Act and the assessee could not represent his case before the AO. Further, during the proceedings before the ld. CIT(A), the assessee could not represent his case before AO in response to remand report called for by the ld. CIT(A). Further, ld. A.R. of the assessee vehemently submitted that the AO in the course of remand proceedings was unwilling to even verify the documents with the impounded materials and the AO relied on the stand that assessment are done by the previous AO and the present AO does not intend to verify the materials this occasion and accordingly AO denied legal and natural justice to the assessee.

4.1 This being so, in the interest of justice & fair play and considering the prayer of ld. A.R. of the assessee, we remit the entire issue in dispute to the file of ld. CIT(A) for fresh consideration and to decide the same in accordance with law after giving reasonable opportunity of being heard to the assessee. The assessee is directed to cooperate with the proceedings before the authorities below and file the relevant documents/evidences/submissions/information which would be essential and required by the revenue authorities for proper adjudication of the case. We clarify that in case of further default, the assessee shall not be entitled for any leniency. It is ordered accordingly.

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

Order pronounced in the open court on 24th Apr, 2025

Sd/-
(Inturi Rama Rao)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 24th Apr, 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Cochin.**