

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

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

ITA No. 750/Coch/2023

Assessment Year : 2017-18

Shri Sasi Chellan, S.U. Cottage Ottasehkaramangalam, Chembur, Neyyattinkara, Trivandrum. Kerala – 695 121. PAN: ACWPC4654L	Vs.	The Assistant Commissioner of Income Tax, Circle 1(2), Trivandrum.
APPELLANT		RESPONDENT

Assessee by	:	Shri G.Surendranath Rao, CA
Revenue by	:	Smt. Leena Lal, Snr. AR

Date of Hearing	:	06-02-2025
Date of Pronouncement	:	28-04-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 31/08/2023 in respect of the A.Y. 2017-18 and raised the following grounds:

“1. The order of the Commissioner of Income Tax (Appeals) is against facts and law..

2. Commissioner of Income Tax (Appeals) went wrong by upholding the addition of Rs.1,18,13,883/- under section 68 without proper appreciation of facts. Commissioner of Income Tax (Appeals) failed to appreciate that the referred capital introduced during the year were only out of accumulated savings of agricultural and other income. The Commissioner of income Tax (Appeals) should have considered the appellant has a proven history of filing income tax returns regularly and is not a defaulter.

3. The CIT(A) has grossly erred in ignoring the submissions made by the appellant. Your appellant has 586 cents of land in his possession In different survey numbers and earned income from sale of nursery and organic farm products from these lands. Your appellant has produced before the AO the certificate from agricultural officers showing the possession of cultivated land of 506 cents survey number wise and details of village in which the agricultural property is located, land records and self made bill books. The agricultural products were being sold to local genuine people only and the appellant is maintaining receipt books on a rough basis. Assessing Officer rejected the evidence alleging lack of genuineness. The Commissioner of Income Tax failed to direct the Assessing officer to re examine the records so as to ascertain the genuineness of the transaction .

4. The Commissioner of Income Tax (Appeals) failed to consider that Rs. 12,63,000 being gift from relatives is exempt from Income tax u/s 56.

5. The Commissioner of Income Tax (Appeals) erred in considering that lack of response from different buyers of wood for an amount of Rs. 59,28,308/- as similar to unexplained cash credit.

PRAYER

For these and such other grounds that may be urged at the time of hearing, it is prayed that the addition made may be deleted.”

2. The brief facts of the case are that the assessee is an agriculturist and also running a money lending business. The assessee filed his return of income on 03/11/2017. Thereafter the said return was taken up for limited scrutiny for the reason that the large increase in capital in a year. Thereafter notices were issued and the assessee also submitted the various records but the AO rejected the explanations offered by the assessee and made an addition u/s. 68 of the Act and a further addition under the long term capital gains. As against the said assessment order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had deleted the addition made under the head long term capital gains but sustained the addition at Rs. 1,18,13,883/- made u/s. 68 of the Act. As against the said order of the Ld.CIT(A), the present appeal has been filed by the assessee before this Tribunal.

3. At the time of hearing, the Ld.AR submitted that the capital introduced during the year were only from the accumulated savings of agriculture and other incomes. The Ld.AR further submitted that the documents in support of the agricultural income were filed before the Ld.CIT(A), which are all in the vernacular language but unfortunately, the Ld.CIT(A) had refixed the addition made u/s. 68 of the Act which is not correct. The Ld.AR further submitted that if one more opportunity is granted, the assessee would be in a position to produce the documents and the translated copies of the documents.

4. The Ld.DR relied on the order of the lower authorities and prayed to dismiss the appeal.

5. We have heard the arguments of both sides and perused the materials available on record.

6. Insofar as the addition made u/s. 68 of the Act is concerned, the assessee at the time of hearing, before the Ld.CIT(A) had furnished the

various documents in support of his contention that the agricultural income earned were brought into the business of the assessee. The Ld.CIT(A) in his order in paragraph number 4.2 had observed that even though the assessee had filed the documents but no translated copy of the said documents were produced by the assessee. In that circumstances, the Ld.CIT(A) had considered the documents and arrived a conclusion that the addition made u/s. 68 of the Act is to be made at Rs. 1,18,13,883/-. While arriving the said addition, the Ld.CIT(A) had given a finding insofar as gifts from close relatives are concerned, that no details of the relatives who had given the gift were furnished by the assessee. In view of the lack of such details, the Ld.CIT(A) had confirmed the addition of Rs. 12,63,000/- being gift received from the close relatives as unexplained cash credit u/s. 68 of the Act. We have considered the submission made by the Ld.AR that the assessee is having all the details of the relatives from whom she had received the gifts and if one more opportunity is granted, the assessee would furnish all the details before the Ld.CIT(A) in support of his claim that the amounts were received as gifts from close relatives.

7. The next addition made u/s. 68 is the disallowance of agricultural income for the reason that the assessee had not proved that she actually earned income from agricultural activities. Further, as stated earlier, the assessee had produced various documents in support of his claim that the incomes were received from the agricultural operations but unfortunately, the said documents were in the vernacular language for which the assessee had not furnished the translated copies. We have considered the submission that if the records submitted by the assessee are properly considered, the addition u/s. 68 in respect of the agricultural income could not be made. The Ld.AR further submitted that the assessee undertook to file the translated copy of the documents in support of their claim that the incomes were earned from the agricultural activities.

8. Similarly, in respect of the sale of wood, the Ld.CIT(A) had confirmed the addition of Rs. 59,28,308/- as not substantiated with evidence. In the order, the Ld.CIT(A) in para 4.3.4, had observed that the confirmation letters filed by the assessee are in vernacular language with only one being in English. That being the case, the verification about the submission that the assessee had received sale proceeds out of the wood sales could not be verified by the Ld.CIT(A). We have also considered the submission that the purchasers are real persons and they had also furnished the confirmation letters to the effect that they had purchased the wood from the assessee. For the reason that the purchasers had not responded to the notice issued by the AO, the transaction could not be doubted and treated as unexplained cash credit u/s. 68 of the Act.

9. We have considered that all the above additions are made for non-furnishing of details as well as non-furnishing of the translated documents and also because of the non-appearance of the purchasers. We are convinced that the assessee is having some documents in support of his claim that she received the gifts from close relatives and also received income from agricultural operations. But the addition was confirmed by the Ld.CIT(A) since the assessee had not furnished the correct details and also the translated copies of the documents. In such circumstances, we consider the request of the Ld.AR that all the details would be furnished and also the translated copies of the various documents would be furnished and therefore we restore all the issues back to the file of the Ld.CIT(A). We also restore the income obtained from the sale of woods to the Ld.CIT(A) for fresh consideration. We also direct the assessee to furnish the details before the Ld.CIT(A) insofar as the gift received from the close relatives and also the translated copies of the various documents including the confirmation letters. In the event, the assessee had submitted the required details, we direct the Ld.CIT(A) to decide the issue afresh insofar as the above three additions are concerned. It is needless to state that before passing the

order, the Ld.CIT(A) would grant an opportunity of being heard to the assessee.

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

Order pronounced in the open court on 28th April, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 28th April, 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