

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 238/Coch/2025
Assessment Year: 2017-18**

Sree Narayana Public School Appellant
Pavumba, P.O., Karunagapilly 690574
[PAN: AANTS1510Q]

vs.

The Income Tax Officer, Ward - 4, Alappuzha Respondent

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

Date of Hearing: 28.04.2025
Date of Pronouncement: 30.04.2025

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Panaji [CIT(A)] dated 13.03.2025 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a charitable trust incorporated under the provisions of Trust Act. It was found with the object of running a school. No regular return of income for AY 2017-18 under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) was filed, However, the Income Tax Officer, Ward-4, Alappuzha (hereinafter called "the AO"), based on the information that the appellant made substantial cash deposits in the bank account, issued a notice u/s.

142(1) of the Act calling upon the appellant to file return of income. The appellant did not file return of income in response to the notice u/s. 142(1) of the Act. However, the appellant filed certain information as called for by the AO vide notice u/s. 142(1) of the Act such Profit & Loss A/c. and Balance Sheet showing the total profit of Rs. 3,49,217/-. It is further claimed that since the aggregate gross receipts does not exceed the prescribed limit of income to the trust, it is eligible for exemption u/s. 10(23C)(iiiad) of the Act. The appellant also made cash deposit in specified bank notes (SBN) during demonetisation period of Rs. 9,38,376/- out of which an amount of Rs. 1,71,129/- was treated as explained representing the cash book balance as on the first day of demonetisation was Rs. 1,71,129/-. The balance of Rs. 7,72,941/- was brought to tax as unexplained money of the appellant.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

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

5. The learned counsel for the assessee argued that the amount of cash deposit during the demonetisation period was made out of the funds collected from the students, which are duly recorded in the books of account, which is authorised by the Government of India notifications allowing educational institutions to collect fees in SBN until 16.12.2016. It is further submitted that provisions of section 115BBE of the Act has no application to the facts of the case. In any way, it is argued that the appellant trust is eligible for deduction u/s. 10(23)(iiiad) of the Act.

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

7. I heard the rival contentions and perused the material available on record. The issue that arises for my consideration is whether the AO is justified in treating the cash deposits in SBN during the demonetisation period as unexplained money of the appellant trust. The facts as emanate from the record are that the appellant is a trust running education institutions. The explanation offered by the appellant trust in support of cash deposits that the cash deposits in SBN were made out of fees collection from students cannot be ruled out. However, the AO had no occasion to examine the veracity of the explanation filed before the CIT(A) and, therefore, I remand the matter back to the file of the AO to examine the veracity of explanation tendered in support of the cash deposit during demonetisation period by examining the records, as may be produced before him in support of such explanation.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 30th April, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th April, 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