

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.123/Coch/2025 : Asst.Year 2022-2023
&
SA No.17/Coch/2025

Suja Mariamma George TC 14/3911, Cherupushpalayam, Chalakupuzhi Lane, Pattom Trivandrum – 695 004 PAN : BPRPG3723F.	v.	The Dy.Commissioner of Income-tax, International Taxation Thiruvananthapuram.
(Appellant)		(Respondent)

ITA No.124/Coch/2025 : Asst.Year 2022-2023
&
SA No.18/Coch/2025

Thomas George TC 14/3911, Cherupushpalayam, Chalakupuzhi Lane, Pattom Trivandrum – 695 004 PAN : BPRPG3725D	v.	The Dy.Commissioner of Income-tax, International Taxation Thiruvananthapuram.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.Veni Raj, CIT-DR

Date of Hearing : 19.05.2025.	Date of Pronouncement : 21.05.2025
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ORDER

Per Prakash Chand Yadav, JM :

These two appeals filed by the assesseees (wife and husband) and as many as stay applications are arising from

the orders of the learned Assessing Officer [“the AO” for short] dated 06.12.2024 and 28.01.2025, and relate to the assessment years 2022-2023.

2. Since facts are common, we are deciding these appeals by way of this consolidated order, for the sake of convenience. We will take ITA No.123/Coch/2025 for assessment year 2022-2023 as a lead year and discuss the facts.

3. The brief facts as coming out from the orders of the authorities below are that the assessee is an individual, filed her return of income for the impugned assessment year on 24th June, 2022 declaring an income of Rs.11,31,200. The case of the assessee was selected for scrutiny and statutory notices were issued to the assessee. During the course of assessment proceedings, the AO observed that the assessee has sold two properties, measuring 9.1 Acer(hereinafter referred to property number A) and 3.4 Acres(herein after referred to as Property number- B) in the year under consideration, both properties were situated in survey number 1353, Pattom. Thereafter the AO conducted inquiry from the SRO Pattom office regarding the FMV of the land as on 2001-2002. The SRO replied to the letter of the AO and stated that no transaction with respect to the survey number1353, in which the assessee has sold the property was made in 2001-2002. The SRO further replied that in other survey number the rate of the land was Rs.2 lakh per cent. Thereafter the AO referred to some sale deeds as provided by the SRO. On the basis of these informations, the AO came

to the conclusion that the FMV of property A would be Rs 42,00,253 as against Rs 1,76,33,125/- shown by assessee and FMV of property number B would be Rs15,85,002 as against Rs 66,57,000/- shown by the assessee. It is pertinent to note here that the share of assessee in property number A is 33.33% and in property number B is 33.33% , rest of the share is of the husband of the assessee. The AO thereafter issued a show cause notice to the assessee asking the difference in FMV as computed by the AO. The assessee vide his reply dated 25th January, 2024 submitted his reply. After considering the reply of the assessee, the AO made an addition of Rs.72,99,608. The AO was of the view that the value of land as considered by the SRO office should be the FMV and hence the assessee is wrongly computed the capital gain.

4. Aggrieved with the draft order of the AO, the assessee filed her objection before the Dispute Resolution Panel (DRP) and argued that the AO is not correct in re-computing the long term capital gains by adopting the value of the land as applicable for stamp duty purposes. In support of the contention, the assessee has also filed valuation report of the Registered Valuer. However, the DRP could not find any force in the arguments of the assessee and affirmed the draft order. Thereafter the AO passed the final assessment year.

5. Aggrieved with the order of the AO, the assessee has come up in appeal before us. Today, when the matter was called up for hearing, no-one appeared on behalf of the assessee, despite proper service of notice. It is pertinent to note hear that in

column No.12 of Form 36 the assessee has prayed to set aside the assessment order. In these circumstances, we are going to decide this appeal on the basis of the material available on record.

6. The learned CIT-DR relied upon the orders of the DRP and the AO.

7. We have heard the ld DR and perused the findings of the DRP as well as the submissions made by the assessee before the lower authorities. It is the case where the AO has computed the FMV of the property on the basis of the circle rate applicable for the purpose of stamp duty. We are of the view that this approach of the AO as well as the DRP is not correct inasmuch as it is settled position of law that FMV is the value agreed between two parties after due consideration of the veracity of the land. Further, the assessee in support of the FMV has also placed report of Registered Valuer. In the case of S.K.Construction, the Hon'ble Delhi High Court reported in 167 Taxman 171 has held that where the assessee file a report of Registered Valuer, it is incumbent upon the AO to deal with the report of a Registered Valuer. However, in the present case, the AO and the DRP have discarded the report of the Registered Valuer in a summary manner, which is not tenable in law. Even the provisions of section 50C of the Income-tax Act lay down that where an assessee object to the circle rates, then it is incumbent upon the AO to refer the matter to the Departmental Valuation Officer (DVO). Therefore, we are of the firm opinion that this matter requires fresh

consideration at the end of AO and after referring the matter to the DVO, the AO will frame the assessment *de novo*. With these observations, the present appeal of the assessee is hereby restored to the file of the AO.

8. Our observations in this order is applicable *mutatis mutandis* to the other appeal in ITA No.124/Coch/2025 in the case of Thomas George, as well.

9. Since we have already decided the main appeals the SA number 17 and 18 of 2025 would be infructuous.

10. In the result, the appeals filed by the assessee are allowed for statistical purposes and the stay applications are dismissed.

Order pronounced on this 21st day of May, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 21st May, 2025.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin