

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

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

ITA No.615/Coch/2024 : Asst.Year 2012-2013

Joseph Puthenpurayil Augusthy Puthenpurayil House Pulloorampara Kozhikode – 673 603. PAN : AHPPA6946F.	v.	The Dy.Commissioner of Income-tax, International Taxation Kochi.
(Appellant)		(Respondent)

Appellant by : Sri.Richard Mathew, CA
Respondent by : Smt.Leena Lal, Sr.AR

Date of Hearing : 27.05.2025.	Date of Pronouncement : 30.05.2025
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee arising from the order of the learned Commissioner of Income-tax (Appeals) [“CIT(A)” for short] dated 27th July, 2023, having DIN No.ITBA/APL/M/250/2023-24/1054656445(1) and relates to assessment year 2012-2013.

2. Brief facts of the case as coming out from the orders of the authorities below are that the assessee is a non-resident, filed its return of income electronically on 31st May, 2013 declaring a total income of Rs.45,01,880. Thereafter, the case of the assessee was selected for scrutiny. During the course of assessment proceedings, it has been observed by the Assessing

Officer that the assessee has shown income from business on the sale of certain flats. The AO observed that the assessee has apportioned the cost of construction of the flat over years and reduced the same from the sale consideration and it is divided the profits between the assessee himself and his spouse. The AO asked the assessee to submit the proof of cost of construction amounting to Rs.1.32 crore. However, the assessee could not be able to furnish the same, and accordingly, the AO disallowed the entire cost of construction of Rs.1.3 crore and added the same to the income of the assessee.

4. Aggrieved with the order of the AO, the assessee filed an appeal before the CIT(A), however, the CIT(A) sustained the additions made by the AO.

5. Still feeling aggrieved with the order of the CIT(A), the assessee has come up in appeal before us. The learned Counsel for the assessee pointed out that there is a delay of 280 days in the present appeal, inasmuch as, the assessee is a non-resident and residing abroad and could not be able to file the appeal on time, because of certain medical emergencies as well as problems happened in the filing of appeal via e-portal of the ITAT.

6. The learned DR opposed the prayer for condonation of delay.

7. Considering the averments made in the affidavit, we hereby condone the delay of 230 days and proceed to decide the matter. So far as the merits of the case are concerned, the learned Counsel for the assessee prayed that the matter may be restored to the file of the AO

8. The learned DR relied upon the orders of the authorities below.

9. After considering the rival submissions, we observe that in this case, the disallowance of Rs.1,29,36,130 has been made by the AO on account of cost of construction. The main reason was that the assessee could not file documentary evidences in support of this expense. The CIT(A) in the interest of justice, has restricted the addition to Rs.20 lakh only. The CIT(A) has also disallowed the cost of improvement of Rs.3,16,124 claimed by the assessee. We are of the view that considering the status of assessee an NRI and his precious time, the purpose of justice would be served by deleting the addition of Rs.3, 16,124 in respect of cost of improvement, and so far as the cost of construction is concerned, we grant a partial relief of Rs.10 lakh and restrict the disallowance to the tune of Rs.10 lakh only. It is ordered accordingly.

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

Order pronounced on this 30th day of May, 2025.

**Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER**

**Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER**

Cochin; Dated : 30th 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