

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

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

ITA No.38/Coch/2023 : Asst.Year 2002-2003  
ITA No.96/Coch/2023 : Asst.Year 2003-2004  
ITA No.97/Coch/2023 : Asst.Year 2005-2006

Gemtech Solutions Pvt.Ltd. O-17, Jawahar Nagar Trivandrum – 695 003. <b>PAN : AABCG4955A.</b>	v.	The Asst.Commissioner of Income-tax, Cir. 1(1) Trivandrum.
(Appellant)		(Respondent)

Appellant by : Sri.Govind G.Nair,Advocate  
Respondent by : Smt.Leena Lal, Senior AR

<b>Date of Hearing : 27.05.2025.</b>	<b>Date of Pronouncement : 30.05.2025</b>
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**ORDER**

**Per Prakash Chand Yadav, JM :**

These three appeals of the assessee are arising from the orders of the CIT(A) dated 26<sup>th</sup> September, 2022 and 30<sup>th</sup> September, 2022, and relates to assessment years 2002-2003, 2003-2004 and 2005-2006, respectively.

2. There is a delay of 48 days in filing these appeals before the Tribunal. The Counsel for the assessee pointed out that the authorized signatory of the assessee-company, i.e., Mr.Sridharan Gopal, has met and accident in the month of October, 2022(medical documents are also filed), and hence, there is delay of 48 days in filing these appeals.

3. The learned DR opposed the prayer of the assessee for condonation of delay.

4. After considering the application for condonation of delay, we condone the delay of 48 days and proceed to decide these appeals.

5. The assessee has raised six grounds of appeal, out of which, ground No. (a) to (d) are related to the initiation of proceedings under the provisions of section 148 of the Income-tax Act and rest of the grounds are related to the additions made by the Assessing Officer on account of attribution of profits received by the assessee as project advance. So far as the legal grounds are concerned, we do not find any force in the arguments of the assessee and hence the reopening of the assessment is upheld. Coming to the merits of the case, we observe that the issue involved in this appeal is squarely covered by the decision of the co-ordinate Bench in assessee's own case in the case of Gem Tech Solutions Private Limited v. DCIT in ITA No.293/Coch/2009 for assessment year 2004-2005 (order dated 1<sup>st</sup> June, 2013). In this case, the ITAT has observed as under:-

*“7. We have considered rival submissions on either side and also perused the material available on record. The only objection of the assessee appears to be that during the year under consideration, the assessee devised a computer machine which was a model one subject to approval of the customer. The fact remains is that the so-called model developed by the assessee was on the basis of order placed by the customer after paying the advance amount. Therefore, the so-called modeling devised by the customer is on the*

*orders placed by the customer after paying the project advance. Even in the subsequent assessment year, though the model was approved, the assessee could not start its work and the project could not be completed. Still, the assessee recognized 50% of the project advance as income. This Tribunal is of the considered opinion that the project work started when the assessee started working on the modeling on the basis of the orders placed by the customer on payment of project advance. Therefore, as per the regular method of accounting adopted by the assessee, part of the project cost has to be recognized as income as has been done for the assessment year 2005-06. Therefore, this Tribunal do not find any infirmity in the order of the lower authority. Accordingly, the same is confirmed.*

6. Respectfully following the above judgment of the Tribunal, we are of the view that there is no error in the order of the CIT(A), and hence, the additions made by the AO stands confirmed.

7. In the result, the appeals filed by the assessee are dismissed.

Order pronounced on this 30<sup>th</sup> day of May, 2025.

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

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

Cochin; Dated : 30<sup>th</sup> 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