

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

**BEFORE SHRI GEORGE GEORGE K., VP
AND SHRI INTURI RAMA RAO, AM**

**ITA No. 223 /Coch/2025
Assessment Year: 2017-18**

Kerala State Co-op. Employees Pension Board Appellant
7th Floor, Jawahar Sahakarana Bhavan
DPT Junction, Thycaud P.O.
Thiruvananthapuram 695014
[PAN: AABTK7561K]

vs.

ACIT (Exemption), Thiruvananthapuram Respondent

Appellant by: Shri Amaljith P.J., CA
Respondent by: Shri Sanjit Kumar Das, CIT-DR

Date of Hearing: 14.05.2025
Date of Pronouncement: 16.05.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [(CIT(A)] dated 27.01.2025 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a statutory pension board established u/s. 80A of the Kerala State Co-operative Societies Act, 1969. It is founded for the purpose of administering the pension fund which have the sole purpose to provide annuities for employees of co-operative society in Kerala State on their

retirement at or after a specified age or on their becoming incapacitated prior to such retirement or for the widows, children or dependents of persons who are or have been such employees on the death of those persons. The appellant was duly registered u/s. 10(23AAA) of the Income Tax Act, 1961 (the Act). No regular return of income for AY 2017-18 was filed by the appellant. On the basis of information that the appellant had made cash deposit during the demonetisation period, a notice u/s. 142(1) of the Act was issued to the appellant on 19.03.2018. The assessment was completed vide order dated 31.12.2019 by the ACIT (Exemptions), Thiruvananthapuram (hereinafter called "the AO") u/s. 144 of the Act at Nil income accepting the claim for exemption u/s. 10(23AAA) of the Act. However, the appellant had filed an appeal before the CIT(A) contesting that the appellant was not granted credit for TDS of Rs. 6,07,52,715/- claimed as refund.

3. After receiving the assessment order the appellant filed a petition u/s. 154 of the Act seeking credit for TDS OF Rs. 6,07,52,715/- and the same was rejected by the AO vide order dated 08.06.2023 passed u/s. 154 of the Act by holding that in the absence of a valid return of income no refund can be granted and also placed reliance on the decision of the Hon'ble Supreme Court in the case of CIT v. Sun Engineering Works (P) Ltd. [1992] Supp 1 SCR 732) saying that the reassessment proceedings cannot be beneficial to the assessee.

4. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.
5. Being aggrieved, the appellant is in appeal before us in the present appeal.
6. We have heard the rival contentions and perused the material available on record. The issue in the present appeal is whether the AO was justified in denying grant of credit for TDS and refund due to the appellant. Admittedly, the appellant had not filed return of income either voluntarily under the provisions of section 139(1) of the Act or in response to the notice issued u/s. 142(1) of the Act. Thus there was no valid return of income for claiming refund as stipulated under the provisions of section 239 of the Act, which reads as under: -

“239. (1) Every claim for refund under this Chapter shall be made by furnishing return in accordance with the provisions of section 139.”

7. In the circumstances, the lower authorities were justified in denying the claim.
8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 16th May, 2025.

Sd/-

GEORGE GEORGE K.
VICE PRESIDENT

Cochin, Dated: 16th May, 2025

Sd/-

(INTURI RAMA RAO)
ACCOUNTANT MEMBER

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