

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SOUNDARARAJAN K., JM**

ITA Nos. 335 & 336/Coch/2024 – AYs: 2015-16 & 2017-18

DCIT, Central Circle Aayakar Bhavan, Karbala Junction, Kollam 691001	vs.	Sreevalsam Hotels and Resorts Pvt. Ltd. Rajavalsam, Panangadu, Kulanada Pandalam, Pathanamthitta 689503
(Appellant)		(Respondent)

ITA Nos. 338 & 339/Coch/2024 – AYs: 2015-16 & 2016-17

ACIT, Central Circle Aayakar Bhavan, Karbala Jn. Kollam 691001	vs.	Sreevalsam Jewellers Ground Floor, Sree Valsom Bldg. MC Road, Pandalam Pathanamthitta 689501 [PAN: AGBFS9013C]
(Appellant)		(Respondent)

ITA No. 318/Coch/2024 – AY: 2016-17

DCIT, Central Circle Aayakar Bhavan, Karbala Junction, Kollam 691001	vs.	Allebasi Builder and Developers Pvt. Ltd. No. 1, Shelter, LMS Junction Attingal P.O., Thiruvananthapuram
(Appellant)		(Respondent)

**ITA Nos. 174 & 320/Coch/2024
Assessment Years: 2012-13 & 2018-19**

DCIT, Central Circle Aayakar Bhavan, Karbala Junction, Kollam 691001	vs.	Valsala Raj Rajavalsam, Panangadu, Kulanada Pandalam, Pathanamthitta 680503 [PAN: ACAPR8941B]
(Appellant)		(Respondent)

ITA No. 319/Coch/2024 – AY: 2017-18

DCIT, Central Circle Aayakar Bhavan, Karbala Junction, Kollam 691001	vs.	Smart Residency Hotels India Pvt. Ltd. XIII/325A, Marathakara Bypass Road, Ollur S.O., Thrissur 689503 [PAN: AALCS2724D]
(Appellant)		(Respondent)

ITA Nos. 328 , 329 & 337/Coch/2024 – AYs: 2015-16 to 17-18

DCIT, Central Circle Aayakar Bhavan, Karbala Junction, Kollam 691001	vs.	Rajavalsam Motors Pvt. Ltd. Rajavalsam, Panangadu, Kulanada Pandalam, Pathanamthitta 689503 [PAN: AAFCR6993R]
(Appellant)		(Respondent)

ITA No. 330 /Coch/2024 – AY: 2013-14

DCIT, Central Circle Aayakar Bhavan, Near Railway Station Road, Karbala Junction Kollam 691001	vs.	Pooja Raj Pillai Rajavalsam, Panangadu, Kulanada Pandalam, Pathanamthitta 689503 [PAN: BOEPP9295M]
(Appellant)		(Respondent)

Assessee by: Shri S.K. Tulsiyan, Advocate
Revenue by: Shri Suresh Sivanandan, CIT-DR

Date of Hearing: 21.03.2025
Date of Pronouncement: 30.05.2025

ORDER**Per Bench**

2. These are appeals filed by the assessee and Revenue and Cross Objection filed by the assessee directed against the orders of the

Commissioner of Income Tax (Appeals)-3, Kochi [CIT(A)], dated 29.12.2023 for different Assessment Years.

3. At the outset the learned counsel for the assessee submits that the tax effect involved in these appeals filed by the Revenue is less than Rs. 60,00,000/-. Therefore, in view of the CBDT Circular No. 9 of 2024 dated 17.09.2024 the appeal should be dismissed on law tax effect.

4. On the other hand, the learned CIT DR submits that the present appeals are covered by the exception enumerated in clause (h) of para 3.1 of CBDT Circular No. 5 of 2024 dated 15.03.2024 and, therefore, low tax effect cannot be applied on the appellant's case. It is further submitted that in view of the judgement of the Hon'ble Supreme Court in the case of CIT v. Surya Herbal Ltd. the CBDT circular should not be applied ispo facto when the matter has a cascading effect.

5. We have heard the rival contentions and perused the material available on record. The issue that comes up for our consideration is whether the CBDT circular No. 5 of 2024 can be applied ispo facto or not. The exceptions enumerated in clause (h) in para 3.1 of the circular reads as under: -

“(h) Cases involving organised tax evasion including cases of bogus capital gains/losses through penny stock, cases of accommodation entries.”

The present matter does not involve the issue bogus capital gains/losses through penny stock and case of accommodation entries nor it can be said to be organised tax evasion. Therefore, the objections of the learned Sr. DR is ruled out. As regards the other contention of the learned Sr. DR that in view of the decision of the Hon'ble Supreme Court in the case of Surya Herbal Ltd. (supra) the circular should not be applied ispo facto also cannot be accepted in view of the fact that the no common principle of law is involved in these matters as the issue involved in the present appeal is the addition made u/s. 68/69 of the Act, which is undoubtedly a mixed question of facts and law. Therefore, we are of the considered opinion that CBDT Circular No. 5 of 2024 cannot be applied in the present matter. Accordingly the matter is disposed as under.

6. Vide para 2 of Circular No. 9/2024 dated 17.09.2024 it is stated that in cases where the tax effect in the appeals to be filed before the Appellate Tribunal does not exceed Rs.60 lakhs appeals should not be filed. Thus, taking a note of CBDT Circular No. 9/2024 dated 17.09.2024 and considering the fact that the tax effect in the instant appeal is less than Rs.60 lakhs, the present appeal deserves to be dismissed as not pressed / not maintainable. However, we make it clear that the issues raised in the instant appeal are left open to be examined in the appropriate proceedings, if

arises, in future. At the same time, we also make it clear that if the appeal falls in any of the exceptions referred to in the above said CBDT Circular, the Revenue is at liberty to move an application for recalling the order if so advised.

7. In the light of CBDT Circular No. 9/2024 dated 17.09.2024, the appeals filed by the Revenue stand dismissed.

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

Sd/-
(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th May, 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