

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV., JM**

**ITA Nos. 788 to 791/Coch/2024  
Assessment Years: 2005-06 to 2008-09**

The Dharmodayam Company ..... Appellant  
Round East, Thrissur  
[PAN: AAACD8589J]

vs.

The Income Tax Officer, Ward-1(1), Thrissur ..... Respondent

Appellant by: Ms. Niveditha K. Kammath, Advocate  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 28.05.2025  
Date of Pronouncement: 30.05.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi dated 05.07.2024 for Assessment Years (AY) 2005-06 to 2008-09.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 788/Coch/2024 for AY 2005-06 are stated herein.

4. Brief facts of the case are that the appellant is a company incorporated under the provisions of section 25 of the Companies Act. The company was duly registered u/s. 12A of the Act. The original return of income for AY 2005-06 was filed on 30.05.2006 declaring Nil income after claiming exemption u/s. 11 of the Income Tax Act, 1961 (the Act). Against the said return of income, the assessment was completed by the ITO, Ward -1(1), Thrissur (hereinafter called "the AO") vide order dated 18.12.2007 accepting the returned income. Subsequently, the AO formed an opinion that income escaped assessment to tax as the appellant company failed to apply 85% of its current income for charitable purpose. Accordingly, a notice u/s. 148 of the Act was issued on 05.01.2012. In response to the notice u/s. 148 the appellant filed return of income disclosing Nil income. Against the said return of income, the assessment was completed by the assessment was completed by the AO vide order dated 27.03.2013 passed u/s. 143(3) r.w.s. 147 of the Act at a total income of Rs. 18,00,000/-. While doing so, the AO brought to tax a sum of Rs. 18,00,000/- being the income accumulated and brought from earlier years not applied for charitable purposes.

5. Being aggrieved, an appeal was filed before the CIT(A), primarily contesting that the AO ought not have initiated reassessment proceedings without any fresh material to indicate the income escaped assessment to tax. The reassessment proceedings

were initiated on the same set of facts which means change of opinion. Thus, it was contested that the reassessment was bad in law.

6. On merits, also it is submitted that the appellant had accumulated unspent amount for charitable purposes from past years for subsequent application by filing requisite Form No. 10 before the AO. Therefore, there was no unspent money during the year, therefore, no addition is warranted. The learned CIT(A), while confirming the validity of reassessment proceedings also confirmed the addition.

7. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

8. The learned counsel for the assessee submits that the reassessment proceedings initiated by the AO are bad in law as it amounts to change of opinion. The assessment proceedings are sought to be reopened based on the same set of information as available at the time of original assessment. No reference was made by the AO to fresh tangible material showing escapement of income from assessment to tax, therefore, it is submitted that the law laid down by the Hon'ble Supreme Court in the case of CIT v. Kelvinator of India Ltd. [2010] 320 ITR 561 is squarely applicable.

9. On the other hand, the learned Sr. DR submits that the material on record clearly indicates non application of income and,

therefore, initiation of reassessment proceedings are valid in law. Even on merits, she submits that the addition of amount for medical purpose amounts application of income and, therefore, the amount spent by the appellant towards purchase of ambulance cannot be deleted.

10. We have heard the rival contentions and perused the material available on record. Now we shall deal with the grounds of appeal challenging the very validity of reassessment proceedings. It is the contention of the appellant that reassessment proceedings were initiated on mere change of opinion, as evident from the assessment order itself as there was no reference to any fresh tangible material indicating escapement of income to tax. We have carefully perused the assessment order and found that the AO sought to reopen the assessment merely based on the same set of information as there was no reference by the AO to any fresh tangible material that had come to light subsequent to the original assessment proceedings suggesting escapement of income to tax. Therefore, it can be safely concluded that the reassessment proceedings are bad in law. The ratio of the decision of the Hon'ble Supreme Court in the case of *Kelvinator of India Ltd. (supra)* is squarely applicable. Therefore, the consequent assessment made also is bad in law. Accordingly, the appeal filed by the assessee stands allowed.

11. Since identical issues are involved in all other appeals, the above findings are *mutatis mutandis* apply to all these appeals also.

12. In the result, the appeals in ITA No. 788 to 791/Coch/2024 stand allowed.

Order pronounced in the open court on 30<sup>th</sup> May, 2025.

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 30<sup>th</sup> May, 2025

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Copy to:

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

Assistant Registrar  
ITAT, Cochin