

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

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

**ITA No. 983 /Coch/2024
Assessment Year: 2017-18**

Palmshore Hotels Pvt. Ltd. Appellant
Light House Road, Vizhinjam
Thiruvananthapuram 695521
[PAN: AABCP3814F]

vs.

ACIT, Circle-10, Thiruvananthapuram Respondent

Appellant by: Shri Rajeev R., CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 15.05.2025
Date of Pronouncement: 23.06.2025

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 04.10.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a company incorporated under the provisions of Companies Act, 2013. It is engaged in the business of running hotels. No regular return of income under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) was filed for AY 2017-18. However, the AO, on

receipt of information that the appellant had a turnover from services reported in Service Tax Return of Rs. 34,17,888/-, interest income and rental income on which TDS was deducted, formed an opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 of the Act was issued. The appellant did not comply with this notice u/s. 148. The appellant even had not responded to the notice u/s. 142(1) (ii) of the Act. In the circumstances, assessment was completed by ACIT, Circle-10, Trivandrum (hereinafter called "the AO") vide order dated 27.03.2022 passed u/s. 147 r.w.s. 144B of the Act at a total income of Rs. 1,00,13,580/- . While doing so, the AO estimated the business income at 8% of the turnover reported in Service Tax Return of Rs. 2,73,430/- and made addition on account of interest income of Rs. 29,186/- and rental income received of Rs. 68,75,670/-. He also added back the unpaid liability of loan of Rs. 18,04,290/-.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

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

5. The learned counsel for the assessee submitted that the assessment of licence fee of Rs. 68,75,670/- received from Somatheeram Ayurvedic Beach as income from other Source' is against decision of the jurisdictional Hon High Court of Kerala in

appellant's own case relating to A.Y 2005-06 [(2017) 252 Taxman 191]. Income from licence fee is assessable as 'income from business' only. The action of the AO may be struck down with a direction to assesses the income as income from business. It is further submitted that the action of the CIT(A) upholding the action of the AO in assessing an amount of Rs.34,17,888/- taken from the Service Tax return as business income despite the fact that the same income is already included in the amount of Rs.68,75,670/- credited in P&L is not in order and is to be stuck down. He further submitted that the action of the CIT(A) upholding the action of the AO in making addition of Rs. 18.04,290 representing loan repayable to Somatheeram Ayurvedic Beach Resorts Pvt Ltd as income despite that fact that outstanding loan from Somatheeram Ayurvedic Beach Resorts Pvt Ltd has been confirmed by them is to be stuck down. It is submitted that the action of the CIT(A) upholding the action of the AO in making an addition of Rs.10,31,630 u/S.43B as unpaid Service Tax liability despite the fact that there are no unpaid liabilities of any nature as per the audited accounts is to be stuck down.

6. On the other hand, the ld. Sr. DR had no objection to remand the matter to the file of AO for verification of the above facts by the AO.

7. We have heard rival contentions and perused the material available on record. The matter is restored to the file of AO for fresh adjudication in accordance with law after affording reasonable opportunity of hearing to the appellant.

8. In the result, appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 23rd June, 2025.

Sd/-
GEORGE GEORGE K.
VICE PRESIDENT

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 23rd June, 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

Assistant Registrar
ITAT, Cochin