

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA Nos. 327 & 328/Coch/2025
Assessment Years: 2015-16 & 2018-19**

Good Shepherd Central School Trust Appellant
Mullassery P.O., Thrissur 680509
[PAN: AABTG4556E]

vs.

The Income Tax Officer (Exemption), Thrissur Respondent

Appellant by: Shri C.J. Romid, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 26.05.2025
Date of Pronouncement: 23.06.2025

ORDER

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 07.03.2025 for Assessment Years (AY) 2015-16 & 2018-19.

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. 327/Coch/2025 for AY 2015-16 are stated herein.

4. Brief facts of the case are that the appellant is a charitable trust founded with the object of imparting education. No regular return of income under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) was filed for AY 2015-16. The ITO (Exemption), Thrissur (hereinafter called "the AO"), based on the information that the appellant made cash deposit of Rs. 44,88,000/- in current account maintained with South Indian Bank Ltd. and Rs. 19,68,000/- in the account maintained with Catholic Syrian Bank Ltd., formed an opinion that income escaped assessment to tax. Therefore, proceedings u/s. 148 were initiated. Accordingly, a notice u/s. 148 of the Act was issued. In reply to the notice u/s. 148 the appellant filed the return of income on 24.05.2022 disclosing Nil income. Against the said return of income, the assessment was completed by the AO vide order dated 04.03.2023 passed u/s. 143(3) of the Act at a total income of Rs. 19,80,925/-. While doing so, the AO had not allowed depreciation as application of income solely for the reason that the appellant had filed return of income for the first time.

5. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order, placing reliance on the decision of the Hon'ble Supreme Court in the case of CIT v. Kulu Valley Transport Co. (P) Ltd. [1970] 77 ITR 518 dismissed the appeal.

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

7. I heard the rival contentions and perused the material available on record. Admittedly, the appellant is a charitable trust formed with the object of imparting education, enjoying registration u/s. 12A of the Act. The AO disallowed the claim for depreciation as application income solely on the ground that the return of income for earlier year was not filed. Even on appeal before the CIT(A), the CIT(A) confirmed the action of the AO by holding that the claim for carry forward cannot be allowed as return of income was not filed with the due date prescribed u/s. 139(1) of the Act. In my considered opinion the approach adopted by the lower authorities is totally erroneous. It is settled principle of law that for computing taxable income of charitable institutions duly registered u/s. 12A of the Act, income be computed in commercial manner, depreciation be allowed as application of income. The fact that return of income for earlier years were not filed nor return of income for year under consideration was not filed within the due date would not make any difference as the issue in question is carry forward of loss. The orders of the learned lower authorities were hereby set aside with a direction to the AO to delete the addition. Appeal of the assessee is allowed.

8. Since identical issues and facts are involved in assessee's appeal ITA No. 328/Coch/2025, our findings in ITA No. 327/Coch/2025 shall apply mutatis mutandis to this appeal also.

9. In the result, the appeals filed by the assessee stand allowed.

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

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