

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SONJOY SARMA, JM**

**ITA No. 973/Coch/2024
Assessment Year: 2006-07**

Gold Plaza India (Pvt) Ltd. Appellant
Crescent House, Manoor P.O., Kaladi
Malappuram 679582
[PAN: AABCG8869K]

vs.

The Income Tax Officer, WD-1(1), Thrissur Respondent

Appellant by: Shri K. Kittu, Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 10.06.2025
Date of Pronouncement: 31.07.2025

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) 2006-07.

2. Brief facts of the case are that the appellant is a company incorporated under the provisions of Companies Act, 1956. It is engaged in the business of dealing in jewellery. The return of income for AY 2006-07 was filed on 11.04.2007 declaring Nil income after claiming set off of carry forward loss. Against the said

return of income, the assessment was completed by the ITO, Ward 1(1), Thrissur (hereinafter called "the AO") passed u/s. 143(3) 5r.w.s. 147 of the Income Tax Act, 1961 (the Act) at a total income of Rs. 8,23,167/-. Subsequently, the assessment was reopened u/s. 148 of the Act by issuing notice u/s. 148 on 22.03.2013 as the AO formed an opinion that income escaped assessment to tax based on the information that the appellant company sold its entire inventory of 6753.833 gms of gold on 09.12.2005 to the share holders @490/- per gram as against the market value of Rs. 680 per gram. In response to notice u/s. 148, the appellant filed return of income. Against the said return of income, the assessment was completed by the AO vide order dated 29.03.2014 passed u/s. 143(3) r.w.s. 147 at a total income of Rs. 1,33,23,414/-. While doing so, the AO made addition of Rs. 1,29,09,294/- on account of alleged suppression of sale value of gold to shareholders.

3. Being aggrieved, an appeal was filed before the CIT(A), challenging the very validity of the reassessment proceedings as the AO reopened the assessment after expiry of 4 years without alleging that there is a failure on the part of the assessee to disclose truly and wholly all material facts necessary for making assessment. There was no fresh material brought on record to suggest escapement of income to tax. The CIT(A) dismissed the appeal.

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

5. We have heard the rival contentions and perused the material available on record. The first ground of appeal challenges the very validity of reassessment proceedings on the ground that in the absence of allegation that there is failure on the part of the assessee to disclose material facts truly and wholly before the AO, the reassessment proceedings were invalid. The assessment year under consideration before us is AY 2006-07. Notice u/s. 148 of the Act was issued on 26.02.2013, which is clearly beyond 4 years from the expiry of the relevant assessment year. The reasons recorded for issuance of notice u/s. 148 reads as under: -

“Whereas I have reasons to believe that your income chargeable to tax for the assessment year 2006-07 has escaped assessment within the meaning of section 147 of the Income Tax Act, 1961.

2. I, therefore, propose to for the said assessment year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form of your income for the said assessment year.

*3. This notice is being issued after obtaining the necessary satisfaction of the commissioner of Income Tax -----
----- the Central Board of Direct Taxes.”*

From a mere perusal of the reasons extracted above, it would be evident that there is not even an allegation by the AO that there is failure on the part of the assessee to disclose material facts truly and wholly necessary for assessment, thus, condition precedent to exercise power of reassessment does not stands satisfied. Therefore,

the reassessment notice issued u/s. 148 of the Act is bad in law.

Reference can be made in this regard to the following judgements: -

- i. Imperial Consultants and Securities Ltd. v. DCIT (2025) 473 ITR 217.
- ii. Dull Chand Singhania v. ACIT 269 ITR 192 (P&H)
- iii. General Motors India Pvt. Ltd. v. DCIT 360 ITR 527 (Guj.)
- iv. CIT v. Suren International Pvt. Ltd. 357 ITR 24 (Del)
- v. CIT v. Fibres & Fabrics Pvt. Ltd. ITA No. 310/2014 dated 22.09.2015 (Kar HC)
- vi. Kotarki Constructions Pvt. Ltd. v. ACIT WP No. 61671 of 2016 dated 02.01.2018 (Kar HC)

In view of this settled position of law, we hold that since there was not even an allegation by the AO that there was failure on the part of the assessee to disclose truly and wholly the material facts necessary for the purpose of making assessment. Therefore, the reassessment proceedings are bad in law. Accordingly, the assessment is quashed.

6. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 31st July, 2025.

Sd/
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 31st July, 2025
n.p.

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1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
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Assistant Registrar
ITAT, Cochin