

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

**SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.538/COCH/2025  
(Assessment Year:2014-2015)**

**Popular Motor World Pvt. Ltd.,**  
Geethanjali Stop, NH-47,  
Byepass, Vytilla, Cochin,  
Ernakulam, Kerala-682019  
[PAN:AADCP 6327 K]

..... **Appellant**

Vs

**Income Tax Officer,**  
Corporate Woard-2(5),  
Income Tax Office, I S Press Road,  
Kacheripady, Kochi, Ernakularm,  
Kerala-682018

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri P.M. Veeramani, CA  
For the Respondent/Department : Ms. Neetu S, Sr. DR

**Date**

Conclusion of hearing : 18.08.2025  
Pronouncement of order : 21.08.2025

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal preferred by the Assessee is directed against the order, dated 08/07/2025, passed by the National Faceless Appeal Centre, Delhi [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 24/12/2019, passed under Section 143(3) read with Section 147 of the Act for the Assessment Year 2014-2015.
2. The Assessee has raised following grounds of appeal :
  1. *The order of the Commissioner of Income Tax (Appeals) is against fact and law.*

2. *The Commissioner of Income Tax (Appeals) is not justified in re-opening of the assessment on a re-appraisal of facts already considered in the original assessment. The service tax return were called for and examined during the original assessment and an addition of Rs. 65,708 was made in the said assessment. No new facts were available and as per reasons recorded for re-opening, the same was made on a re appraisal of facts already on record during the original assessment. The re-opening of the assessment is thus on a mere change of opinion, which Commissioner of Income Tax (Appeals) has failed to take note of and thus not followed the various Supreme Court decisions in this regard*
3. *Commissioner of Income Tax (Appeals) has erred in rejecting the argument of the appellant that the approval was granted by the Joint Commissioner of Income Tax without application of mind. As per paragraph 11(a) of reasons recorded, the AO has clearly mentioned that it was on verification of records it was observed there was omission of turnover when compared to service tax return. The undisclosed turnover represented expenditure on which service tax was paid on reverse charge basis on the expenditure debited to profit and loss account and it was not a turnover at all.*
4. *Commissioner of Income Tax (Appeals) went wrong in his conclusion not passing a speaking order on the objection raised against re-opening of the assessment was only a procedural irregularity. Your appellant had furnished the High Court judgment in this regard which was not followed by the Commissioner of Income Tax (Appeals)*
5. *Commissioner of Income Tax (Appeals) went wrong in his conclusion that the appellant had not substantiated that the amounts on which service tax was paid on reverse charge basis represented expenditure debited in profit and loss account. The assessing authority is not justified in the observation that details of services in respect of which service tax was paid under reverse charge was not furnished. Commissioner of Income Tax (Appeals) failed to consider the fact that the alleged "escaped turnover" was taken from the service tax returns which were part of original assessment and thus the materials were already before him. The return reflected that the expenses on which service tax was paid on reverse charge represented security, Housekeeping and work charges expenses. In addition to the above in the objections to re-opening, the reconciliation of turnover as per service tax return and Profit and Loss Account was furnished. The Commissioner of Income Tax (Appeals) failed to note that the assessing officer had wrongly considered expenses incurred as turnover and confirmed the addition."*

3. The relevant facts in brief are that the Assessee is a private limited company working as authorized dealer for sale and services of Hyundai Passenger vehicles. For the Assessment Year 2014-15 original assessment was framed under Section 143(3) vide Assessment Order, dated 28/12/2016. Thereafter, re-assessment proceedings were initiated by issuance of notice, dated 28/03/2019, under Section 148 of the Act which culminated into passing of the Assessment Order, dated 24/12/2019, under Section 143(3) read with Section 147 of the Act whereby the addition of INR 2,82,82,304/- was made in the hands of the Assessee holding the same to be undisclosed turnover. The appeal filed by the Assessee against the Assessment Order, dated 12/04/2019, was dismissed by the Learned CIT(A), vide Order, dated 08/07/2025. Being aggrieved, the Assessee has preferred this present appeal on the grounds reproduced in paragraph No.2 above.
4. We have heard both the sides. The Assessee has, inter alia, challenged the re-assessment proceedings on the ground that re-assessment proceedings under Section 147 of the Act have been initiated on the ground of mere change of opinion after examining the material which already formed part of the assessment record. Per contra, the stand taken by the Revenue is that the income liable to tax had escaped assessment and, therefore, the Assessing Officer was justified in initiating the re-assessment proceedings. The reassessment proceedings were initiated on the basis of tangible material.
5. On perusal of the record it emerges that assessment under Section 143(3) of the Act was framed on the Assessee vide Assessment Order, dated 28/12/2016. Subsequently, the Assessing Officer recorded the following reasons for reopening the assessment:

"(a) Subsequently **on verifying the records** it was found that a sum of Rs. 2,82,82,304/- included in the turnover was omitted to be

included in the P&L account. The Assessee is an authorised dealer for sales and service of Hyundai Cars. One of the reasons for selection the case for scrutiny assessment was "Higher turnover reported in Service Tax Return compared to ITR". The Gross Value of Services as per Service Tax Return details shown in ITS data was Rs. 40,56,56,878/ whereas the Gross value of services credited to the Profit and Loss account for the year was Rs. 39,68,05,426/-. Regarding the difference found, the Assessee filed a reconciliation statement vide letter dated 30.08.2016 in which it was explained that the difference in amounts shown was due to "Free service income" which represents work carried out during free service period scheme to the customers and even though no consideration is received, service tax was payable by Assessee on the same during the year on notional basis. In this regard, free service income declared by Assessee was Rs. 93,23,575/- .The receipts liable to service tax in the case were service income and commission income. As per the copies of service Tax Returns filed on records, Assessee declared receipts from 4 types of service net value of which comes to Rs. 43,54,71,583/-

On excluding the Free Service receipts of Rs. 93,23,575/-, as pointed out by Assessee , the balance service receipts to be shown in the Profit and Loss account for the year works out to Rs. 42,61,48,008/ (i.e 43,54,71,583 - 93,23,575). Against the same, Assessee had shown Rs. 39,77,99,996/- (Service income Rs. 318392428 + Commission training fee Rs. 79407568) only as credit to the Profit and Loss account for the year. Accordingly, turnover of Rs. 2,83,48,012/- (ie 426148008 -397799996) was not considered for computing Income from business chargeable to tax for the year. In the assessment u/s 143(3) of the Income Tax Act 1961 completed for the year, an amount of Rs. 65,708/- only was added to as short admission in the return of income. Therefore, the balance short admission of income of Rs. 2,82,82,304/- was omitted to be assessed to tax.

*In view of the above, I am satisfied that income chargeable to tax exceeding Rs. 1 lakh has escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961." (Emphasis Supplied)*

6. Objecting to the initiation of re-assessment proceedings, the Assessee filed Letter, dated 14/05/2019, wherein it was stated as under:

*"Re: Popular Motor World Private Limited, 33/2361 A2 Geethanjali Stop, NH Bypass, Vytilla, Cochin 682019 - Assessment year 2014-15 - PAN: AADCP6327K - Objection to re-opening of the assessment Your letter dated 2.5.2019*

*We are in receipt of your notice dated 2.5.2019 enclosing reasons recorded for re-opening of the assessment which was completed after detailed discussion u/s 143(3) of the Act on the ground that the*

*difference in turnover of Rs.2,82,82,304 as per service tax return and profit and loss account represents income escaped assessment.*

*We wish to bring to your attention that the service tax return comprises of not only income on which service tax is paid, but also certain expenses on which service tax is paid on reverse charge basis. The alleged difference in turnover is only account of expenditure included in service tax return. The reconciliation of the figures as per profit and loss account and service tax return is enclosed herewith.*

*In this connection, we may bring to your attention that the reconciliation of turnover as per profit and loss account and service tax return was discussed in detail during the assessment over several hearings and we had furnished explanations vide our letters 1100/2106 dated 11.8.2016, 1181/2016 dated 30.8.2016, 1748/2016 dated 20.12.2016 and 1765/2016 dated 21.12.2016. In the assessment order, difference in service income of Rs,65,708 was added even though it was explained the service tax return was filed on provisional basis and the same could not be corrected since the time limit for filing revised return had expired. The assessee has disputed the addition to turnover in appeal before the CIT(A).*

*It may thus be observed that the alleged escapement of income is on account of wrong appreciation of facts and there was in fact no escapement of income to initiate action under Section 147. Hence, we object to the re-opening of the assessment and request you to kindly drop the proceedings.*

*We may also inform you that the Assessee has filed return in response to notice under Section 148 on 16/04/2019 and we enclose herewith the copy of the acknowledgement and statement of total income for your ready reference.” (Emphasis Supplied)*

7. On perusal of documents and details referred in the above objections filed by the Assessee, it becomes apparent that the Assessing Officer had initiated re-assessment proceedings on verification of the assessment records and there was no fresh tangible material was available with the Assessing Officer to form a belief that income liable to tax had escaped assessment. In this regard, we note that the original assessment proceedings, the issue of difference between the turnover recorded in service tax return and the turnover disclosed in the return of income was taken up for scrutiny. Vide Notice, dated 27/07/2016, issued under Section 142(1) of the Act, explanation about difference in the turnover as per service tax return and income tax return was sought by way of Query/Item No.

27. In response thereto, the Assessee filed reply Letter, dated, 11/08/2016, explaining the difference. Further, details and explanation was furnished before the Assessing Officer vide letter dated 30/08/2016 (Paragraph 3 – reconciliation), and Letter, dated 20/12/2016 (copy of service tax returns). Thus, it is clear, that the issue of difference between the turnover as per the service tax return and income tax return was examined by the Assessing Officer. It was submitted on behalf of the Assessee that in personal hearings held during assessment proceedings the aforesaid issue was discussed in detail. We note that the Assessing Officer had, in paragraph 3 of the Original Assessment Order, dated 28/12/2016 passed under Section 143(3) of the Act, has recorded following findings in this regard:

***"3. Difference in Turnover between Service tax return and Return of income:***

*On a perusal of submissions, it was seen that there was a difference in the Service tax return compared with the Return of income. The Assessee was asked to clarify the difference. The Assessee has filed a Service tax return admitting service income of Rs.32,77,81,711/- as against the service income in the books of Rs.31,83,92,428/-. Vide letter dated 30/08/2016, the Assessee 's authorized representative stated that a sum of Rs.93,23,575/- representing free service provided as per Dealer agreement was included in the Service tax return even though no income has been realized either from the beneficiary customer or from the manufacturer. However, the Assessee was not able to clarify on the further difference of Rs.65,708/-, which is a short admission in the return of income. In the absence of any explanation provided, the same is added to the income of the Assessee."*

Thus, after examining the issue of difference in turnover, the Assessing Officer made addition of INR.65,708/- in the hands of the Assessee against which the Assessee is in appeal before the CIT(A). While initiating the reassessment proceedings the Assessing Officer has referred to the information/details as contained in the service tax return which were before the Assessing Officer during the original assessment proceedings. The reasons recorded itself state that the Assessing Officer has formed a belief that income has

escaped assessment on verification of record. Further, on considering the reconciliation statement file by the Assessee along with objections (placed at Page 18 of the paper-book) we find that the Assessee had stated that the Assessing Officer had moved on incorrect understanding of fact by taking the expenses of INR.2,98,14,705/- on which service tax has been paid under the reverse charge basis by the Assessee as part of the turnover of the Assessee for the relevant previous year. We find that the objections filed by the Assessee were not disposed off by the Assessing Officer before passing the Assessment Order under Section 143(3) read with Section 147 of the Act.

8. From the above it is evident that the very same issue/material in relation to which re-assessment proceedings were initiated was examined during the course of original assessment proceedings and the Assessing Officer did not have any fresh tangible material to form a belief that income liable to tax had escaped assessment. Therefore, accepting contention of the Assessee that the Assessing Officer, we hold that the re-assessment proceedings are bad in law having been initiated on account of mere change of opinion on reappraisal of the same material that was examined during the original assessment proceedings and in contravention of the provisions contained in Section 147/148 of the Act. Accordingly, notice, dated 28/03/2019, issued under Section 148 of the Act; consequent re-assessment proceedings as well as Assessment Order, dated 24/12/2019, passed under Section 143(3) read with Section 147 of the Act are hereby quashed. Consequently, the addition of INR.2,82,82,304/- made in the hands of the Assessee stands deleted. Thus, Ground No. 1 & 2 raised by the Assessee are allowed while the other grounds are dismissed as having been rendered infructuous.

9. In result the appeal preferred by the Assessee is allowed

Order pronounced on 21.08.2025.

*Sd/-*  
**(Inturi Rama Rao)**  
**Accountant Member**

*sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

कोचीन Cochin; दिनांक Dated : 21.08.2025

*vr/-*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण कोचीन / DR, ITAT, Cochin
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, कोचीन / ITAT, Cochin