

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

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

**ITA No.536/COCH/2025  
(Assessment Year:2017-2018)**

**E T Devassy and Sons Finance Pvt. Ltd.**

XXI/1398, VCP Square Building,  
R.S. Road, Chalakudy, Kerala-680307  
[PAN:AAACB 9421H]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax  
Circle-1(1) & TPS, Aayakar Bhavan,  
Sakthan Nagar, Thrissur, Kerala-680001**

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Hiran C, CA  
For the Respondent/Department : Ms. Neethu 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 29/05/2025, 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 30/12/2019, passed under Section 143(3) of the Act for the Assessment Year 2017-2018.
2. The Assessee has raised following grounds of appeal :
  - "1. *The order of the learned Commissioner of Income-tax (Appeals), NFAC is contrary to facts and circumstances of the Act.*

2. *The learned Commissioner of Income-tax (Appeals) failed to consider the submission made by the Appellant with regard to the Capital contribution by Directors - as emanating through their Current a/c -the Agricultural source of which was proved before the Assessing Officer who partly agreed but disagreed finally with the same and made addition in the quantum assessment.*
  3. *The Appellant submits and states that the addition made in the assessment in terms of sec.69 of the Act - as if it is not recorded in the books of accounts was bad in law as the Appellant Company had maintained books of account and the case being a Tax Audit case.*
  4. *The appellant submits that the Directors had adequate agricultural income and had brought the capital contribution through their Current A/c in the company books and the addition of the same in terms of Sec.42 of the Companies Act is quite unwarranted and violative of the very provisions of sec.69 of the Act.*
  5. *The Appellant submits and states that the source for agricultural income of the Directors were unacceptable for the Assessing Officer he ought to have considered the same in the hands of the Directors and not in the hands of the company.*
  6. *For these and other submissions that may be made at the time of hearing, it is prayed that the order of the Commissioner of Income-tax (Appeals) and the orders of the learned Assessing Officer may please be set-aside/and the addition deleted in the assessment and justice rendered to the Appellant."*
3. The facts, in brief, as emerging from the record are that the Assessee, a non-banking finance Company, filed its return of income for the Assessment Year 2017-18 on 28/02/2018 declaring income of INR.9,21,690/-. The said return has been selected for scrutiny and the Assessing Officer completed the regular scrutiny assessment under Section 143(3) of the Act vide Assessment Order, dated 30/12/2019, determining at a total income of the Assessee at INR.76,16,170/- after making, inter alia, an addition of

INR.25,00,000 under Section 69 of the Act. The Assessee carried the issue in appeal before the CIT(A) and contended that aforesaid amount of INR.25,00,000/- represented the capital contributed by the directors of the Assessee-company in cash. Since the transactions were recorded in books of accounts no addition could have been made under Section 69 of the Act. However, the CIT(A) declined to grant any relief to the Assessee. The CIT(A) observed that though the Assessee has stated that the funds were sourced from the agricultural income of the directors of the Assessee-Company, no evidence was furnished by the Assessee in support of the same. According to the CIT(A), the Assessee company had also violated provisions of Section 42 of the Companies Act, 2013 by receiving the capital in cash. The CIT(A), in conclusion, relied upon the provisions contained in Section 69A and 68 of the Act to dismiss the appeal of the Assessee vide order impugned by way of the present appeal.

4. During the course of hearing the learned Authorised Representative of the Assessee reiterated the submission made before the CIT(A) and submitted that the learned CIT(A) had adjudicated the appeal without considering the documentary evidence furnished by the assessee before the CIT(A) and had recorded incorrect finding that no supporting documents were furnished by the Assessee to supports its case and meet the requirements of Section 68 of the Act. The Learned Authorised Representative placed reliance upon the document placed before us as part of the paper-book and submitted that Income Tax Return Acknowledgement of the directors for the Assessment Year 2017-2018 and the board resolution passed by the Assessee-company for allotment of shares to directors.
5. Per Contra, the learned Departmental Representative placed reliance upon the order passed by the Assessing Officer and CIT(A). It was submitted that the Assessee had failed to provide any reasonable

explanation regarding the cash deposits and the source thereof. The documents filed by the Assessee were not sufficient to discharge the burden cast upon the Assessee to provide genuineness of the transaction and the creditworthiness of the parties.

6. We have given thoughtful consideration to the rival submissions and have perused the material on record. On perusal of the Assessment Order we find that the Assessing Officer had made the addition of INR.25,00,000/- under Section 69A of the Act holding the same to be unexplained investment. Whereas, on perusal of the order passed by the Learned CIT(A), we find that the Learned CIT(A) has, while concluding in paragraph 7.6 of the impugned order, placed reliance upon the provision of Section 68 of the Act. However, perusal of the impugned order does not show that the Assessee was put to notice in relation to the same. We find that the appeal was filed for hearing on 28/03/2024 by way of notice dated 13/03/2024. In response, the Assessee had filed reply dated 04/04/2024 and written submission dated 08/04/2024. The Learned CIT(A) has reproduced the said submissions in paragraph 6 of the order impugned. Perusal of the same shows that the Assessee had not advanced any submission on the applicability of Section 68. Therefore, we are of the view that the Learned CIT(A) had invoked the provisions contained in Section 68 of the Act without confronting the Assessee regarding the applicability of the same to the facts of the present case.

7. During the course of hearing, the Learned Authorized Representative for the Assessee had submitted that the Assessee had furnished the relevant documents/details to prove the identity and creditworthiness of the Directors as well as genuineness of the transactions and, therefore, the provisions contained in section 68 of the Act was incorrectly invoked by Learned CIT(A). We find merit in the aforesaid contention advanced on behalf of the Assessee to the extent it was contended that the Learned CIT(A) had failed to

consider the material placed before the Learned CIT(A) in the appellate proceedings. We note that in Assessment Order (at page 10 of 59), the Assessing Officer has recorded as under:

*"I have carefully considered the submission made evidences filed and gathered, explanations offered by the assessee, as for as the assessee's claim of income agriculture as source for the share capital of Rs 25 lakhs brought in, even though some evidences are filed o prove reasonable income from agriculture verification of the record and details furnished shows that the assessee has allotted additional shares to its existing shares holders".*

However, in paragraph 7.3 of the order impugned the Learned CIT(A) has returned a finding that no explanation has been offered regarding the source of capital introduced by the directors. The findings returned by the CIT(A) are contrary to record.

8. In view of the above, we deem it appropriate to set aside the Order, dated 29/05/2025 passed by the Learned CIT(A) with the directions to adjudicate the grounds raised by the Assessee in appeal before the CIT(A) afresh, after grating the Assessee a reasonable opportunity of being heard as per law. The Assessee has directed to cooperate in the appellate proceedings before the CIT(A) and file all the relevant submissions/documents/details on which the Assessee wishes to place reliance before the CIT(A) on receiving notice of hearing. The Assessee is directed to furnished the relevant documents/details/submission to discharge the onus cast as per the provisions contained in Section 68/69A of the Act. Since we have restored the appeal back to the file of the CIT(A), all the rights and contentions of the Assessee are left open. It is clarified that in case the Assessee fails to enter appearance before the CIT(A) or fails to file relevant documents/details/submission, the CIT(A) would be at liberty to adjudicate the grounds raised by the Assessee in appeal

before CIT(A) on the basis of material on record.

9. In result the appeal preferred by the Assessee is allowed for statistical purposes.

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//

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आयकर अपीलीय अधिकरण, कोचीन / ITAT, Cochin