

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

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

**ITA No.571/COCH/2025
(Assessment Year:2016-2017)
&
SA No. 79/COCH/2025
(Assessment Year:2016-2017)**

Syedali Ebrahim

328 329, Saad Manzil, Pathamkallu,
Neyyattinkara, Thiruvananthapuram- 695009

Padmanathan. K.V,
R. Sreejith Advocates,
E2, Lucy's Arcade, Old Railway
Station Road, Ernakulam – 18.
[PAN: AAJPE7592E]

..... **Appellant**

Vs

**The Income Tax Officer, Ward-1(1),
Thiruvananthapuram**

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Padmanathan K. V.
For the Respondent/Department : Smt. Leena Lal

Date

Conclusion of hearing : 20.08.2025
Pronouncement of order : 22.09.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 19/06/2025, passed by National Faceless Appeal Centre (NFAC), 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 29/12/2018, passed under Section 143(3) of the Act for the Assessment Year 2016-2017. Assessee has also

filed Stay Application No.79/Coch/2025 in ITA No.571/Coch/2025 on 12/08/2025.

ITA No.571/COCH/2025

2. The Assessee has raised following grounds of appeal :

- "A. The order of the lower authorities to the extent prejudicial to the appellant are highly unjust, arbitrary and contrary to the facts and the law.*
- B. The authorities below failed to appreciate that the increase in the capital account is by way of transfer from the house loan account and personal account of the appellant, which is evidenced by entries in the respective accounts and reflected in the audited financial statements.*
- C. The rejection of appellant's submission on the ground that there is no addition to the fixed assets nor is there any capital work in progress shown in AY 2015-16 and AY 2016-17 is factually incorrect, since the loan was taken on 31-12-2012 and such additions to fixed asset has taken place in the FY 2013-14.*
- D. The appellant has constructed a residential house availing the loan from Federal bank with the property of his wife Rukkiya Amma as collateral security. The residential property belongs to the appellant and property tax as being paid in his name. Therefore, he is entitled to claimed interest paid on housing loan as a deduction under house property income.*
- E. The findings of the lower authorities to the extent that the loan was taken by Rukkiya Amma as per the information from the bank under section 133(6) is factually incorrect, as the bank had sanctioned the loan to the appellant and has issued a confirmation letter to this effect.*
- F. The appellant craves to add, modify, substitute, alter or delete any of the grounds in this appeal."*

3. The relevant facts in brief are that the Assessment for the Assessment Year 2016-17 was framed on the Assessee under Section 143(3) of the Act vide Assessment Order, dated 29/12/2018. The Assessing Officer assessed the income of the

Assessee at INR.1,15,31,681/- as against returned income of INR.16,04,380/- after making the following addition/disallowances (a) addition of INR 97,27,301/- under Section 68 of the Act; and (b) addition of INR.2,00,000/- by disallowing loss from self-occupied property claimed by the Assessee. Being aggrieved, the Assessee preferred appeal before the Ld. CIT(A) challenging the above addition/disallowance which was dismissed vide Order, dated 19/06/2025. Now, being aggrieved, the Assessee had preferred present appeal before the Tribunal on the grounds reproduced in paragraph 2 above.

4. During the appellate proceedings the Assessee made following submission:

“Addition to capital account of Rs.97,27,301/- treated as unexplained credit”

3. *During the financial year 2015-16, a sum of Rs. 97,27,301/- was credited to the capital account. This credit does not represent any fresh capital introduction but is a result of internal transfer entries from existing accounts duly recorded and verifiable:*

<i>Ledger Account</i>	<i>Date of transfer</i>	<i>Amount</i>
<i>H. Loan A/c. 14407300002160</i>	<i>31-03-2016</i>	<i>Rs. 93,31,065.00</i>
<i>Syed Ali Ebrahim</i>	<i>19-08-2015</i>	<i>Rs. 3,75,000.00</i>
<i>Syed Ali Ebrahim</i>	<i>31-03-2016</i>	<i>Rs. 21,236.27</i>
<i>Total</i>		<i>Rs. 99,27,301.27</i>

4. *These transactions are reflected in the audited financial statements for FY 2015-16 (Annexure A) and are supported by the ledger accounts of the Housing Loan Account (Annexure B), Personal Account (Annexure C), and the Capital Account (Annexure D).*
5. *The appellant had availed the said loan from Federal Bank on 31-12-2012 for the construction of property. The fixed asset addition on account of such construction was made in FY 2013-14 and was properly accounted for in the books and reflected in the Audited financial Statements of that year.*
6. *Until FY 2014-15, the outstanding housing loan was disclosed as a liability in the balance sheet (Annexure E). In FY 2015-16, the closing balance of the housing loan account was transferred to the capital account through a journal entry. Likewise, the balance in the*

personal account was also transferred to the capital account. Thus, there was no fresh capital introduced during the year; the increase in the capital account was entirely by way of internal transfer entries, as confirmed by the relevant ledgers and financial statements. In addition to the above, the bank statement of the housing loan account (Annexure F) may be referred to for verifying the corresponding debit entry.

7. *The credits in the capital account for the FY 2015-16 cannot be treated as unexplained since all the entries are duly reflected in the books of accounts and audited financial statements. Hence, the ingredients of section 68 are not satisfied and the addition made there under is not legally sustainable.*
8. *The appellant has also explained the nature and source of the credit in the capital account being transfer from housing loan account and personal account. Hence, section 68 cannot be invoked in the present case."*
5. Per contra, the Ld. Departmental Representative taking us through the Assessment Order submitted that the Assessee had failed to establish the cash flow and had not placed on record the underlying documents and details. Therefore, the submission made by the Assessee and the documents on which reliance was sought to be placed required verification by the Assessing Officer.
6. In rejoinder, the Ld. Authorized Representative of the Assessee submitted that all the relevant documents were now available with the Assessee and the same could be reproduced before the Assessing Officer for verification in case an opportunity was granted to the Assessee.

Ground No. A, B & C

7. Considering the overall facts & circumstances; and having thoughtful consideration to the rival submission recorded hereinabove, we find some merits in the submission advance on behalf of the Assessee. The Assessee has placed on record ledger account of Gaint Steel; Financial Statements for Financial Year ended 31/03/2015; and Bank Statement issued by Federal Bank (Account Number

14407300002160) for the period 1/04/2015 to 31/04/2016 to establish that the Assessee has taken a housing loan. However, as pointed out by Ld. Departmental Representative, the aforesaid documents/details require verification by the Assessing Officer. Further, the Assessee has not placed on record the underlying loan agreement, the statement of loan account and the provided relevant account/details to show movement of funds from loan account to the account of the Assessee. However, during the course of hearing it was stated by the Learned Authorised Representative that the Assessee would be able to furnish the relevant documents for verification before the Assessing Officer. Accordingly, we deem it appropriate to restore the issues raised in the present appeal back to the file of Assessing Officer with the directions to adjudicate the same afresh after taking into consideration the material/documents filed by the Assessee. The Assessee is directed to place all the relevant material including documents/agreement on which the Assessee wishes placed reliance before the Assessing Officer. The Assessing Officer is directed to adjudicate the issue a fresh after granting the Assessee a reasonable opportunity of being heard. It is clarified that in case the Assessee fails to respond to the notices issued by the Assessing Officer and/or fails to furnish the relevant documents/details/submission, the Assessing Officer would be at liberty to adjudicate the issue based upon the material on record. In terms of the aforesaid, Ground No. A, B and C raised by the Assessee are treated as allowed for statistical purposes.

Ground No. D, E & F

8. Ground No. D, E & F raised by the Assessee is dismissed as not pressed in view of the statement made by the Ld. Authorized Representative for the Assessee during the course of hearing to the effect that Assessee does not wish to peruse the same.

9. In result, in terms of Paragraph 7 and 8 above, the appeal preferred by the Assessee is treated as allowed for statistical purposes.

S.A. No.79/COCH/2025

3. Since we have allowed the appeal preferred by the Assessee for statistical purpose, the Stay Application [S.A.No.79/COCH/2025] is dismissed as having rendered as infructuous.

Order pronounced on 22.09.2025.

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

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

मुंबई Mumbai; दिनांक Dated : 22.09.2025

Disha Raut, Stenographer

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 ,मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai