

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

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 449/Coch/2025
Assessment Year : 2014-15

The Assistant Commissioner of Income Tax, Central Circle, Kozhikode.	Vs.	M/s. Hillwood Furniture Pvt. Ltd., 1 st Floor, NH Road, Chungam, Feroke, Kozhikode – 673 631. PAN: AABCH5005Q
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing	:	04-08-2025
Date of Pronouncement	:	30-10-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the revenue challenging the order of the Ld.CIT(A), Kochi – 3 dated 18/03/2025 in respect of the A.Y. 2014-15 and raised the following grounds:

“1. In the facts and circumstances of the case, the Id.CIT(A) erred in opining that tree order giving effect to the CIT(A) order dated 29.06.2021 is not in order.

2. In the facts and circumstances of the case, the Id.CIT(A) has failed to take note of the fact that assessee M/s. Hill wood Furniture Ltd. and its group concern M/s. Hill wood

Imports and Exports (P) Ltd. are separate legal entities and their assessments were made separately.

3. In the facts and circumstances of the case, the Id.CIT(A) has erred in accepting the stand of the assessee clubbing the income of its group concerns to am is. at an inflated relief whereas in the order giving effect to CIT(A) order dated 29.06.2021, the purchase value of additional quantity of timber as well as credit to amount of internal transfer was rightfully reduced to the extent of proportionate value of total sales turnover of the group entity.

4. For these and any other grounds that may be urged at the time of hearing, the impugned order of the Commissioner of Income Tax (Appeals)-III Kochi may be set aside."

2. The brief facts of the case are that the assessee is a company engaged in the business of trading of timber. The company imported timbers and sold to various retailers. The group concerns also importing the wood and exported the sized woods. They also exported furniture, door frames etc. They mainly imported goods from Malaysia, Indonesia, Burma and African countries. The department was of the view that the assessee had not reported the actual turnover effected by them from the business operations and therefore the search was conducted on 04/12/2013. The residence of Shri V. Shareefon was also searched. Survey also undertaken u/s. 133A of the Act. At the time of search, several incriminating documents were seized and based on that the revenue had estimated the suppressed income. The Managing Director of the assessee company also accepted that the assessee had not declared the actual turnover while filing the return of income. During the search proceedings, statements were recorded from the employees and the authorities had concluded that the assessee had raised lesser amount in the bills as against the actual amounts and based on that, the suppressed turnover was arrived.

3. Based on the survey conducted u/s. 133 of the Act, residence of the employee Shri Riyaz was surveyed and documents related to the assessee company were recovered and impounded. Three pen drives were also found

and impounded. Based on the data available in the pen drives and the incriminating materials seized at the time of search, the authorities had estimated the actual sales suppressions. Based on that, additions were made.

4. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) by an order dated 29/06/2021 in Appeal No. CIT(A), Kochi-3/11038/2017-18 had partly allowed the appeal by following the earlier orders of the Ld.CIT(A)-III, Kochi dated 26/03/2018 in ITA Nos. 121 to 126/C/CIT(A)-III/2016-17 in respect of the A.Ys. 2008-09 to 2013-14 in which also the assessments were made based on the results of the search and survey conducted in the premises of the assessee and his associates. In the said order, the Ld.CIT(A) had given the following finding.

1. 1. The appellant disputed similar additions in it's own case for the A.Ys 2008-09 to 2013-14 and took identical grounds of appeal. The CIT(A)-III vide order dated 26.03.2018 in ITA. Nos 121 to 126/C/CIT(A)-III/2016-17 in the case of M/s Hillwood Furniture Pvt Ltd held as under;

"5.4. I have gone through the assessment order and submission of the appellant. On 04.12.2013 a search and seizure operation was carried out at the premises of the appellant company, other group concerns and directors of the companies. During the course of search, voluminous documents were found and seized evidencing that the appellant company as well as other group concerns were engaged in systematic suppression of sales and thereby profits. Details of these documents seized and contents of these documents have been elaborated by the AO in the assessment order. During the post search investigation, the Investigation Wing received information that the books of accounts are also maintained at a different premise, which was under the control of Shri Riyaz, who is an employee Mr. Shareef, the controller of Hillwood Group. A survey u/s. 133A was carried out on 14.07.2014 at the said premises of Shri Riyaz M. and books of accounts belonging to Hillwood Group was found and impounded. During the course of survey 3 pen drives containing data of Hillwood Group was also found and these were also impounded. The contents of the pen drives were subjected to forensic imaging and a copy of the contents were provided to Shri Shareef and his Authorized Representative also. The vendor of the software used was identified as Shri Jacob A. J. and his statement was also taken. Mr. Jacob stated that the software was a complete accounting package and was sold to Hillwood Group. There is no dispute about the fact that data contained therein in the pen drives found and impounded belonged to the Hillwood Group and the same were also compared to the documents found and seized during the course of search. Since the data found in the pen drives have been supplied to the appellant i.e. Mr. Shareef, it cannot be said that the principle of natural justice have not been adhered to. The AO has compared the data from the pen drive to the seized documents and also the books of account maintained by the appellant in regular course of business. Nothing adverse can be inferred from the fact that the pen drive was impounded in a survey seven to 8 months after the search was initiated in the Group. Once an information has been received, the officers of the Department are duty bound to conduct inquiries through and according to various provisions available in the Act. Thus, on the basis of fact of this case, it is seen that:

a) Ground of Appeal No.2 is factually incorrect as the assessment has been completed by the AO on the basis of data and evidences found during the course of search and the data found to be contained in the said Pen Drive. Ground of Appeal No. 2 is dismissed accordingly.

b) On the basis of discussion above, it is clear that neither the search or the survey conducted subsequently are bad-in-law, as there has been no legal or procedural infirmity in carrying out the same. There is no dispute that the data contained in the said Pen Drive belonged to the Appellant. Ground of Appeal No. 3 of the appellant is dismissed accordingly.

c) Ground of Appeal No.4 also cannot be allowed as it is proved beyond doubt that the data contained in the Pen Drive belonged to the Appellant and its group concerns and the AO has correctly used such data in computing the income of the appellant. This ground of appeal of the appellant is dismissed.

d) Grounds of Appeal Nos. 5, 6 and 7 relate to Principle of Natural justice and use of data contained in the Pen Drives. It has already been discussed earlier that there is no dispute about the fact that the data contained in the said pen drives belonged to the appellant group and copy of the data was provided to the appellant before finalization of the assessment. The appellant has objected that Mr. Riyaz was not made available for cross-examination by the Department. In this regard, it is an important fact that the statement of Riyaz has not been used to compute the income of the appellant, but it is the data contained in the pen drive has been used for assessment. Since the statement of Mr. Riyaz has not been used against the appellant, there is no question of giving an opportunity of cross-examination of Mr. Riyaz to the appellant arises. The data in the Pen Drive has been used against the appellant and therefore, a copy of the same was given to the assessee. Mr. Riyaz is an employee of Mr. Shareef and it is an undisputed admitted fact that data contained in the Pen Drive found during the course of survey at the premises of Mr. Riyaz belonged to the assessee. I do not see any violation of Principle of Natural Justice in the facts of this case. Since the above data belonged to the appellant, the AO has correctly used them for the purpose of assessment. Grounds of Appeal Nos. 5, 6 and 7 are thus dismissed".

1. In view of the material placed on record and in view of the above decision in appellant's own case in earlier assessment years, grounds 2 to 6 are

rejected.

1. 1. Grounds 8 to 10 are regarding the correctness of the computation of income based on the pen drive and incriminating evidences found and seized during the Search. The appellant contended that the Assessing Officer has not allowed deduction for the cost of timber sold, stock transfers between the concerns and other expenses even though the same are allowable based on the data found in the pen drive. .
1. 1. As noted above, similar additions were disputed and the CIT(A)-III vide order dated 26.03.2018 in ITA. Nos 121 to 126/C/CIT(A)-III/2016-17 in the case of M/s Hillwood Furniture Pvt Ltd decided the above issues as under (paragraph 6.4 on pages 52 and 53 of the appellate order);

"To sum up the facts, it is seen that the AO has relied on the data contained in the pen drive found from Mr Riyaz and has found the data to be correct. However, the appellant has contended that the AO has relied on part of the data only and has ignored the other data available in the same pen drive and available with the AO. The appellant contended that the AO has taken only the turnover as per the data available in the pen drive and ignored the internal transfer, quantitative details of sale of timber and other expenses. The appellant has recasted the profitability as per the data available in the pen drive during the course of the appellate proceedings.

Thus taking an overall view of the facts of this case, the AO is directed to verify the correctness of the data furnished by the appellant and give credit for internal transfers by reducing the same from the total turnover, give credit for the unaccounted purchases as per the quantitative details available in the pen drive and other expenses, as per the data available in the pen drive and recomputed the total income of the appellant."

1. 1. In view of the material placed on record and in view of the above decision in appellant's own case in earlier assessment years, the Assessing Officer

is directed to verify the correctness of the computation submitted by the appellant vis a vis the impounded pen drive and directed to recompute the total income of the appellant, in accordance with the computation made for earlier assessment years, by reducing internal transfers of timber, as found in the impounded pen drive, from the total turnover and by allowing the cost of timber based on the quantitative details of timber and other expenses, as found in the impounded pen drive, for the A.Y 2014-15. Grounds 8 to 10 are accordingly allowed.

5. The assessing officer while giving effect to the order of the Ld.CIT(A), had recomputed the total income at Rs. 9,78,50,910/-. In the said order giving effect to the CIT order, the AO had granted the relief of Rs. 20,30,48,620/- as granted by the Ld.CIT(A). In the said order giving effect to the order of the Ld.CIT(A), the assessee had pointed out some mistakes and therefore the assessee had challenged the said order again before the Ld.CIT(A) and raised the following grounds:

"i) The Assessing Officer adopted Rs.9,78,50,910/- as the assessable income of the appellant for the AY 2014-15 as per order dt.30.08.2021 on giving effect to the order dt.29/06/2021 of the Commissioner of Income Tax (Appeals)-IV, Kochi, which is wrong as per the computation detailed in the Statement of Facts.

ii) The total assessable income for the two companies, M/s. Hillwood Furniture Pvt Ltd and M/s.Hillwood Imports & Exports Pvt Ltd is Rs.5,23,58,821/- as in the Statement of Facts and the appellant may submit that Rs.3,22,93,690/- is the amount to be adopted as the income of the appellant in the place of Rs.9,78,50,910/- adopted by the Assessing Officer.

iii) For the above reasons and other arguments those may be put forward at the time of hearing the appellant may request to cancel the assessment of Rs.9,78,50,910/- as per the revised order dt.30.08.2021 and the income of Rs 3,22,93,690/- may be fixed as the assessable income of the appellant company."

6. The assessee also filed written submissions which is also extracted for easy reference.

2.2 During the course of appellate proceeding the appellant has filed the following written submissions/contentions in support of its cause.

a) *The Assessing Officer has not complied with the direction of the Commissioner of Income Tax (Appeals) as per the appellate order and made computation of taxable income wrongly.*

b) *The assessable income may be computed as under.*

A	Total income for AY 2014-15 as fixed in the Assessment Order for which appeal is decided	
	Hillwood Furniture Pvt. Ltd.	30,08,99,530
	Hillwood Imports & Exports Pvt. Ltd.	8,06,68,690
		38,15,68,220
B	Relief granted by CIT(Appeals)	
	Value of unaccounted purchase	9,31,24,836
	Less: Relating to the firm Hillwood Timbers 10.47%	97,50,170
	Net	8,33,74,666
C	Relief on account of expenses [CIT(A)'s Order]	
	Hillwood Furniture Pvt. Ltd.	3,33,332
	Hillwood Imports & Exports Pvt. Ltd.	2,07,109
		27,39,79,998
D	Less: Internal Transfer relating to the firm Hillwood Timbers 10.47%	2,86,85,706
	Balance	24,52,94,292
E	B + C + D	32,92,09,399
F	Total assessable income [A – E]	5,23,58,821

This income is to be apportioned in the ratio of purchase of timber, as per the order dated 30/08/2021.

<i>Hillwood Furniture Pvt. Ltd.</i>	<i>[55.22%]</i>
<i>Hillwood Imports & Exports Pvt. Ltd.</i>	<i>[34.31%]</i>
<i>Hillwood Timbers (Firm)</i>	<i>[10.47%]</i>

The purchase of timber of Hillwood Timbers 10.47% is already deducted from the purchase of timber as stated in "B". Hence, the amount of Rs.5,23,58,821/- is to be apportioned in the ratio of 55.22% for Hillwood Furniture Pvt Ltd and 34.31% for Hillwood Imports & Exports Pvt Ltd as under.

<i>Hillwood Furniture Pvt. Ltd.</i>	<i>Rs.5,23,58,821 x 55.22/89.53</i>	<i>Rs. 3,22,93,690</i>
<i>Hillwood Imports & Exports Pvt. Ltd.</i>	<i>Rs.5,23,58,821 x 34.31/89.53</i>	<i>Rs. 2,00,65,131</i>
<i>Total taxable income of the two companies together,</i>		<i>Rs. 5,23,58,821</i>

The appellants are seriously aggrieved on the order of the Assessing Officer and the Assessing Officer may be directed to apportion the total taxable income of the two companies, M/s. Hillwood Furniture Pvt Ltd and M/s. Hillwood Imports & Exports Pvt Ltd in the following manner:

<i>Hillwood Furniture Pvt. Ltd.</i>	<i>Rs.5,23,58,821 x 55.22/89.53</i>	<i>Rs. 3,22,93,690</i>
<i>Hillwood Imports & Exports Pvt. Ltd.</i>	<i>Rs.5,23,58,821 x 34.31/89.53</i>	<i>Rs. 2,00,65,131</i>
<i>Total taxable income of the two companies together</i>		<i>Rs. 5,23,58,821</i>

7. The assessee submitted that the income of Rs. 5,25,34,606/- has to be apportioned between Hillwood Furniture Pvt. Ltd, Hillwood Import and Export Pvt. Ltd. and Hillwood Timbers in proportion to purchase turnover as per the assessment order dated 30/12/2016. The assessee contended that as per the computation of statement of the assessee, it should be only Rs. 2,90,09,609/- but the income of the assessee has been fixed at Rs.

9,78,50,910/- . As per the submissions filed by the assessee before the Ld.CIT(A), the net income of Rs. 5,25,34,605/- has to be divided between the units as under:

<i>Hillwood Furniture Pvt. Ltd.</i>	<i>Rs. 1,80,24,623/-</i>
<i>Hillwood Imports & Exports Pvt. Ltd.</i>	<i>Rs. 2,90,09,609/-</i>
<i>Hillwood Timbers</i>	<i>Rs. 55,00,373/-</i>
	<i>Total Rs. 5,25,34,605/-</i>

8. The assessee therefore submitted that the income fixed for the appellant company is wrong and prayed to modify the same.

9. The Ld.CIT(A) had considered the appeal and also the percentage of the purchases effected by the three entities and also the earlier order of the Ld.CIT(A) dated 29/06/2021 in the case of the appellant for the A.Y. 2014-15 had given the findings as follows:

"3.2 The appellant, during the course of the appellate proceedings has illustrated the manner of apportioning the total taxable income in its own case as well as the other two associated entities. As per the apportionment-based method submitted by the appellant, the total income should have been assessed at Rs.2,90,09,609/-instead of Rs.9,78,50,910/- worked out by the AO. The computation of taxable income on the basis of apportionment in the ratio of purchase of timber, put forth by the appellant during the appellate proceedings has been examined and appears to be correct and justified.

3.3 From the above, it is clear that issue relating to computation of assessable income of the appellant for the AY under has been discussed and settled by the CIT(Appeals) in his order dated 29/06/2021. Under the circumstances, it is felt that the order appealed against needs certain modifications to this effect. The AO is directed to recompute the total income after considering the relief granted by the CIT(Appeals) in the appellate order. The appeal is disposed of accordingly with the above directions."

10. As against the said order, the revenue is in appeal before this Tribunal.

11. At the time of hearing, the Ld.DR appeared for the revenue submitted that the assessee and its group concerns are legally separate entities and therefore the order of the AO giving effect to the order of the Ld.CIT(A) need not be modified by the Ld.CIT(A).

12. None appeared for the assessee. We have decided to dispose the appeal on merits with the available materials.

13. We have heard the arguments of the Ld DR and perused the materials available on record.

14. In the present case, the 143(3) assessment was made on 30/12/2016 based on the search and seizure operations conducted by the department. Similar assessments were also made for the A.Ys. 2008-09 to 2013-14 which were all challenged before the Ld.CIT(A). In respect of the A.Ys. 2008-09 to 2013-14, the Ld.CIT(A) had passed the order and directed the AO to workout the omissions based on the percentage of purchases effected by the three group concerns. The Ld.CIT(A) had passed a common order in respect of the said A.Ys. which was not challenged by the revenue before the higher forums. When the similar appeal in respect of the assessment year 2014-15 came up for hearing, the Ld.CIT(A) had followed the earlier order of the Ld.CIT(A) dated 26/03/2018 and gave suitable reliefs and directions. The Ld.CIT(A) had followed the said order dated 26/03/2018 and passed the order in respect of the A.Y. 2014-15 on 29/06/2021. The AO had committed some mistakes while passing the order giving effect to the appeal order, and therefore the assessee had filed an appeal before the Ld.CIT(A) and contended that the entire income should not be assessed in the hands of the assessee whereas it should be made based on the ratio of purchase of timber i.e. 55.22% for Hillwood Furniture Pvt. Ltd., 34.31% for Hillwood Imports and Exports Pvt. Ltd. and balance 10.47% for Hillwood Timbers. The Ld.CIT(A) also considered the orders passed for the A.Ys. 2008-09 to 2013-14 as well as the order dated 29/06/2021 and gave the findings in paras 3.2 and 3.3.

15. When the appeal orders for the A.Ys. 2008-09 to 2013-14 and 2014-15 were not challenged by the revenue, the AO has to follow the said order including the directions given in the order while passing the order giving effect to the order of the Ld.CIT(A). In the present case, the assessee has pointed out that the order as well as the direction has not been followed by the AO while giving effect to the order of the Ld.CIT(A) dated 29/06/2021 which was given by following the order of the Ld.CIT(A) dated 26/03/2018. The revenue also not produced any documents to show that the said orders were reversed by the appellate authorities. In such circumstances, we are of the view that the Ld.CIT(A) had rightly passed the order in which the proportionate income in respect of the assessee should be assessed according to the ratio of purchase of timber effected by the assessee. We, therefore find no merits in the case of the revenue and therefore dismiss the appeal.

16. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 30th October, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 30th October, 2025
/MS /

Copy to:

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|---------------|---------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin