



2023:KER:67637

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 3<sup>RD</sup> DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945

ITA NO. 31 OF 2023

AGAINST THE ORDER IN ITA NO.22/COCH/2022 ASSESSMENT YEAR 2015-  
2016

APPELLANT/APPELLANT/APPELLANT/ASSESSEE:

P.V. THOMAS  
AGED 64 YEARS  
POOTHARAYIL HOUSE, AYMANAM. P.O,  
KOTTAYAM, PIN - 686015

BY ADVS.  
SRI.HARISANKAR V. MENON  
SMT.MEERA V.MENON  
SRI.R.SREEJITH  
SMT.K.KRISHNA  
SMT.PARVATHY MENON

RESPONDENT/RESPONDENT/RESPONDENT/REVENUE:

THE INCOME TAX OFFICER  
INCOME TAX DEPARTMENT, WARD NO. 5, PUBLIC LIBRARY  
BUILDING, SASTRI ROAD KOTTAYAM, PIN - 686001

BY ADV.SRI JOSE JOSEPH, SC

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON  
03.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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## JUDGMENT

### **Dr. A.K.Jayasankaran Nambiar, J.**

This Income Tax Appeal impugns the order dated 02.08.2022 of the Income Tax Appellate Tribunal, Cochin Bench, Cochin in ITA No.22/COCH/2022, pertaining to the assessment year 2015-2016 under the Income Tax Act.

2. Shorn of unnecessary details, the brief facts necessary for the disposal of this Income Tax Appeal are that the appellant, who is a dealer in used cars, had filed a return of income on 12.12.2015 for the assessment year 2015-2016 declaring a total income of Rs.13,54,160/-. The assessment under Section 143 (3) of the Income Tax Act was completed by disallowing the cash payment of an amount of Rs.11,59,000/- under Section 40A (3) of the Income Tax Act. Aggrieved by the assessment order, the appellant filed an appeal before the First Appellate Authority, who noticed that the appellant had actually agreed to the addition of Rs.11,59,000/- under Section 40A (3), and hence he could not be said to be aggrieved by the assessment order since it was an agreed order. In a further appeal preferred by the appellant, the Tribunal also agreed with the First Appellate Authority. It is against the said order of the Appellate Tribunal dismissing the appeal of the



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appellant, that he has now approached this Court through the present Income Tax Appeal.

3. We have heard Sri.Harisankar V. Menon, the learned counsel for the appellant and Sri.Jose Joseph the learned Standing counsel for the Income Tax Department.

4. On a consideration of the rival submissions and taking note of the fact that the appellant had admitted the addition under Section 40A (3) of the Income Tax Act and further, had not produced any material before any of the Appellate Authorities to suggest that the addition was not warranted, the finding of the Tribunal based on the admission of the appellant does not warrant any interference in this appeal.

Resultantly, this Income Tax Appeal fails and is accordingly dismissed.

Sd/-

**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-

**DR. KAUSER EDAPPAGATH**  
**JUDGE**



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APPENDIX OF ITA 31/2023

PETITIONER ANNEXURES

- Annexure A COPY OF ASSESSMENT ORDER ISSUED BY THE RESPONDENT FOR THE YEAR 2015-16 DTD. 28-06-2017
- Annexure B COPY OF APPEAL FILED BY THE APPELLANT BEFORW THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN DTD. 05-01-2022
- Annexure C COPY OF ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS), KOTTAYAM DTD. 06-08-2018
- Annexure D CERTIFIED COPY OF ORDER IN ITA NO. 22/COCH/2020 ISSUED BY THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN DTD, . 02-08-2022