



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2025 / 26TH BHADRA, 1947

ITA NO. 58 OF 2024

AGAINST THE ORDER DATED 15.04.2024 IN I.T.APEAL NO.899/COCH/2022
BEFORE THE INCOME TAX APPELLATE TRIBUNAL, COCHIN

APPELLANT/APPELLANT:

SRAVAN KUMAR NEELA, AGED 45 YEARS,
19-380, REDDY COLONY, NEAR SAID TEJA APARTMENTS,
MIRYALAGUDA, NALGONDA
TELANGANA PAN - CPNPK7453K, PIN - 508207.

BY ADVS.
SHRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.P.G.CHANDAPILLAI ABRAHAM
SHRI.JOHN VITHAYATHIL
SHRI.ALEXANDER JOSEPH MARKOS

RESPONDENT:

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE-1, AAYAKAR BHAVAN (NORTH BLOCK),
KOZHIKODE, PIN - 673001.

BY ADVS.
SHRI.NAVANEETH.N.NATH, CGC
SMT.SUSIE B VARGHESE
SRI.NAVANEETH.N.NATH
SRI. JOSE JOSEPH, STANDING COUNSEL

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 15.09.2025, ALONG
WITH ITA NO.59/2024, THE COURT ON 17.09.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2025 / 26TH BHADRA, 1947

ITA NO.59 OF 2024

APPELLANT/APPELLANT:

UMA MAHESHWARA RAO CHINNI,
AGED 45 YEARS, HNO.7-298, 7 WARD,
GANDHI BOMMA CENTRE, DACHEPALLE,
GUNTUR ANDHRA PRADESH, PAN - ARJPC0342D,
PIN - 522414.

BY ADVS.
SHRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.P.G.CHANDAPILLAI ABRAHAM
SHRI.ALEXANDER JOSEPH MARKOS
SHRI.JOHN VITHAYATHIL

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CENTRAL CIRCLE-1, AAYAKAR BHAVAN (NORTH BLOCK) ,
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BY ADVS.
SHRI.NAVANEETH.N.NATH, CGC
SMT.SUSIE B VARGHESE
SRI.NAVANEETH.N.NATH
SRI. JOSE JOSEPH, STANDING COUNSEL

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 15.09.2025, ALONG
WITH ITA NO.58/2024, THE COURT ON 17.09.2025 DELIVERED THE FOLLOWING:

**JUDGMENT****[ITA Nos.58 and 59 of 2024]****Harisankar V. Menon, J.**

These two Income Tax Appeals have been filed by the respective appellants, challenging the common order dated 15.04.2024 of the Income Tax Appellate Tribunal (ITAT), rejecting the appeals filed by them, challenging the finalization of assessments for the year 2017-18.

2. On 19.07.2016, in an operation at the instance of the excise officials at Muthanaga Check Post, an amount of Rs.2,39,57,500/- was seized from the possession of three passengers - Sravan Kumar Neela, Uma Maheshwara Rao Chinni, and K.Ganesh Kumar - who were travelling in a private bus from Hyderabad to Kozhikode. The custody of the entire amount was taken over by the officials under the provisions of the Income Tax Act, 1961 (hereinafter referred to as the "Act"). Later, Sravan Kumar Neela and Uma Maheshwara Rao Chinni submitted letters declaring the entire cash seized from



them - Rs.1,62,47,500/- and Rs.77,10,000/- respectively - as their income from other sources for the financial year 2016-17. The returns were also filed accordingly, and the amounts returned by the respective assessees were treated as unexplained income under Section 69A of the Act, and tax under the provisions of Section 115BBE of the Act was demanded. The respective assessees preferred appeals before the Commissioner of Income Tax (Appeals). Sravan Kumar Neela filed some additional evidence in the form of financial/bank statements of a partnership firm, and the income tax returns of some of the family members to explain the source of the income. The first appellate authority did not accept the additional evidence adduced since that would, in effect, lead to the revision of his returned income, which could not be permitted. Therefore, the appeal was rejected. Uma Maheshwara Rao Chinni, however, remained *ex parte* before the first appellate authority, and his appeal was also dismissed.



3. Separate appeals were filed before the Income Tax Appellate Tribunal, contending essentially that the source of the cash was properly explained and the provisions of Section 69A of the Act ought not to have been applied. Sravan Kumar Neela filed separate affidavits from various persons to point out that he obtained money from friends and relatives. Uma Maheshwara Rao Chinni also produced similar affidavits, contending that the cash actually belonged to one D.Ramesh, who entrusted the said money for the purchase of raw gold from Kerala. The source of the afore amount as regards Ramesh was also produced, along with the affidavits executed by those who advanced the amounts to Ramesh.

4. The Tribunal, by the impugned order dated 15.04.2024, refused to act on the additional evidence produced as above, thereby dismissing the appeals. It is in such circumstances that these appeals are instituted by the respective appellants.



5. Heard Sri.Joseph Markose, the learned senior counsel for the appellants, and Sri.Jose Joseph, the learned Standing Counsel for the respondent.

6. The main contention urged by the learned senior counsel on behalf of the appellants is with reference to the additional evidence produced by the respective appellants before the Tribunal, as noticed earlier. It is his contention that such additional evidence could be produced before the Tribunal under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 (hereinafter referred to as the 'ITAT Rules'). *Per contra*, the learned Standing Counsel for the revenue would contend that the appellants were taking contradictory stands at various stages and hence, the findings of the Tribunal do not warrant any interference.

7. We have considered the rival contentions as well as perused the connected records.

8. The primary question arising for consideration is as regards the acceptance of the additional evidence. True, the



Income Tax Appellate Tribunal can accept additional evidence filed before it. However, it is not as if such evidence once produced requires to be accepted by the Tribunal and acted upon. Rule 29 of the ITAT Rules provides as follows:

“29. Production of additional evidence before the Tribunal

The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them, or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.”

Thus, the Tribunal requires to accept such additional evidence only in a situation where the assessee was prevented from adducing such evidence by the assessing authority. In the case at hand, as noticed earlier, though Uma Maheshwara Rao Chinni claimed that the cash actually belonged to one Ramesh, no evidence was produced. Sravan Kumar Neela did



not raise any such contention. He took up a stand that he was travelling to Kerala to set up a retail store for gold jewellery. Uma Maheshwara Rao Chinni contended that he was planning to invest in a new petroleum business in Kerala. Before the first appellate authority, the afore affidavits were not produced. Sravan Kumar Neela only relied on certain financial/bank statements of certain partnership businesses and income tax returns of some family members. As already noticed, Uma Maheshwara Rao Chinni was set *ex parte* before the first appellate authority. It is thereafter that the respective appellants produced affidavits explaining the source before the Tribunal. However, we are of the opinion that since returns have been presented by the respective appellants, declaring the respective figures as income from other sources, at the belated stage of the second appeal to the Tribunal, if the venture of the appellants is accepted, that would lead to the revision of the returns voluntarily filed, which is not possible under the statute. This is all the more so when one



of the appellants claims that the cash actually belonged to one Ramesh, who has never ventured to claim it at the original stage. From all the above, we are of the opinion that the additional evidence in the form of affidavits produced before the Tribunal is the result of an afterthought alone. The Tribunal is justified in refusing to act on the afore basis.

9. We are of the opinion that the orders of the Tribunal are virtually based on the factual situations noticed earlier, and no infirmity can be attached to those orders.

Resultantly, we find no reason to interfere, and the appeals would stand dismissed, answering the questions raised in these appeals against the assessee and in favour of the revenue.

Sd/-

A.MUHAMMED MUSTAQUE, JUDGE

Sd/-

HARISANKAR V. MENON, JUDGE

In

APPENDIX OF ITA 58/2024

PETITIONER/ S ANNEXURES :

- ANNEXURE A TRUE COPY OF THE INCOME TAX RETURN FILED BY THE APPELLANT FOR ASSESSMENT YEAR 2017-18 DATED 12.10.2018 ALONG WITH COMPUTATION OF INCOME.
- ANNEXURE B TRUE COPY OF ASSESSMENT ORDER DATED 27.12.2018 FOR ASSESSMENT YEAR 2017-18.
- ANNEXURE C TRUE COPY OF APPEAL DATED 30.01.2019 FILED BY THE APPELLANT BEFORE THE COMMISSIONER OF INCOME TAX (APPEALS) [ALONG WITH TYPED COPY OF THE SECOND AND THIRD PAGE].
- ANNEXURE D TRUE COPY OF ORDER DATED 26.07.2022 OF THE COMMISSIONER OF INCOME TAX (APPEALS).
- ANNEXURE E TRUE COPY OF SECOND APPEAL DATED 05.09.2022 FILED BY THE APPELLANT BEFORE THE INCOME TAX APPELLATE TRIBUNAL.
- ANNEXURE F TRUE COPY OF INDEX TO THE PAPER BOOK FILED BY THE APPELLANT BEFORE THE INCOME TAX APPELLATE TRIBUNAL.
- ANNEXURE G CERTIFIED COPY OF THE APPELLATE ORDER DATED 15.04.2024.

APPENDIX OF ITA 59/2024

PETITIONER'S ANNEXURES:

ANNEXURE A	TRUE COPY OF THE INCOME TAX RETURN FILED BY THE APPELLANT FOR ASSESSMENT YEAR 2017-18 DATED 12.10.2018 ALONG WITH COMPUTATION OF INCOME.
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