

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, COCHIN**

**Before Shri Inturi Rama Rao, Accountant Member**

ITA No.689/Coch/2024 : Asst.Year 2005-2006

ITA No.690/Coch/2024 : Asst.Year 2006-2007

ITA No.691/Coch/2024 : Asst.Year 2007-2008

ITA No.692/Coch/2024 : Asst.Year 2008-2009

ITA No.693/Coch/2024 : Asst.Year 2010-2011

ITA No.694/Coch/2024 : Asst.Year 2011-2012

Trivandrum Cable Network (P.) Limited, Chrian Square, II Floor Abjuvilasam Road, Pulimoodu Trivandrum – 695 001. <b>PAN : AABCT8778N.</b>	v.	The Deputy Commissioner of Income-tax, Central Cir.1 Thiruvananthapuram.
(Appellant)		(Respondent)

Appellant by : --- None ---

Respondent by : Sri.Sanjit Kumar Das, CIT-DR

<b>Date of Hearing : 03.02.2025</b>	<b>Date of Pronouncement : 10.02.2025</b>
-------------------------------------	---

**ORDER**

These appeals filed by the assessee are directed against different orders of the Commissioner of Income-tax (Appeals)-3, Kochi [“CIT(A)” for short] dated 2<sup>nd</sup> May, 2024 for the assessment years 2005-2006 to 2008-2009 and 2010-2011 to 2011-2012.

2. Since identical facts and issues are involved in these appeals, they were heard together and are being disposed of by the common order. We take ITA No.689/Coch/2024 as the lead appeal for adjudication and the decision which would arrive at therein would be applicable to other appeals as well.

3. The brief facts of the case are that the assessee is a company engaged in the business of cable operation. A search and seizure operation was carried out under the provisions of sec.132 of the Income-tax Act, 1961 (“the Act” hereinafter) on 08.11.2010. During the course of search and seizure certain incriminating materials were stated to have been found and seized. Based on the incriminating material, the assessee was issued notice u/s.153A of the Act on 28<sup>th</sup> March, 2012. However, the assessee neither complied with the notice issued u/s.153A of the Act nor filed any information as called for vide notice issued u/s.142(1) of the Act. In the above circumstances, the Assessing Officer (Assessing Officer) was constrained to complete the assessment at a total income of Rs.16,18,819. While doing so, the AO made following additions / disallowances:-

(i)	Addition of undisclosed advertisement & slot income.	Rs.5,22,344
(ii)	Addition on account of unexplained cash credit	Rs.8,21,100
(iii)	Addition on account of unexplained cash credit	Rs. 59,100
(iv)	Addition on account of disallowance of exps.	Rs. 59,237
(v)	Addition on account of disallowance of set off of carry forwarded loss	Rs.1,57,038

4. Being aggrieved by the above assessment order, the assessee has filed an appeal before the CIT(A) and contended that the addition u/s.153A of the Act can be made wholly on the basis of incriminating material found and seized. In support of his contention, the assessee placed reliance on the judgment of the Hon’ble Supreme Court in the case of Pr.CIT v. Abhisar Buildwell P.Ltd. (Civil Appeal No.6580 of 2021). It is further contended that the AO cannot resort to

estimation of income in the assessment completed u/s.153A of the Act. However, rejecting the contention of the assessee, the CIT(A) confirmed the addition made by the AO by holding that the addition is wholly based on the incriminating material found and seized. The CIT(A) further held by placing reliance on the judgment of the Hon'ble jurisdictional High Court in the case of CIT v. Hotel Meriya (2014) 362 ITR 664 (Ker.) that the AO is empowered to estimate the income of the assessee even in the case of search assessment proceedings. However, the CIT(A) deleted the addition on account of unexplained cash credits of Rs.59,100 and addition on account of estimated disallowance of expenditure of Rs.59,237. Insofar as the addition of Rs.1,57,038 being disallowance of carried forward loss set off, is concerned, the CIT(A) issued certain directions to the Assessing Officer to settle the issue.

5. Aggrieved by the order of the CIT(A), the assessee is in appeal before me in the present appeal. When the matter was called for, none appeared on behalf of the assessee despite due service notice. Therefore, I proceed to dispose of the appeal on merits.

6. The learned Sr.DR, on the other hand, relied upon the orders of the authorities below.

7. I have heard the learned Sr.DR and perused the material available on record. The solitary issue that arises for my consideration is that in the assessment made u/s.153A of the Act, whether the AO made the addition wholly based on

incriminating material found and unearthed during the course of search and seizure operation or not. There is no quarrel as to the proposition of law that the addition u/s.153A can only be made on the basis of incriminating material found and unearthed during the course of search and seizure operation, as held by the Hon'ble Supreme Court in the case of *Pr.CIT v. Abhisar Buildwell P.Ltd.* (supra). In the present case, on a mere perusal of the assessment order, it would be clear that the additions were made based on the diaries and note books seized from the residence of the assessee. The said diaries and note books clearly reveal that the assessee had received income from advertisement, not disclosed in the return of income. The receipts from said business were not disclosed in the return of income. Based on the gross receipts, the net profit was estimated at Rs.5,22,344. Similarly is the position in the case of business of UN Cable Network. Thus, it is clearly evident that the addition was made solely on the basis of the incriminating material found during the course of search and seizure. Further, the Hon'ble jurisdictional High Court in *CIT v. Hotel Meriya* (2014) 362 ITR 664 (Ker.) held that even in the case of an assessment made u/s.153A, the estimation of income can be made if the incriminating material justifies estimation. Thus, the contentions raised for challenging the addition made by the AO are devoid of any merit.

8. The other additions were made by the AO, based on incriminating materials unearthed as a result of search and

seizure action. Hence, the AO has justified in making addition u/s.153A of the Act.

9. In the result, the appeals filed by the assessee are dismissed.

Order pronounced on this 10<sup>th</sup> day of February, 2025.

**Sd/-**  
**(Inturi Rama Rao)**  
**ACCOUNTANT MEMBER**

Cochin; Dated : 10<sup>th</sup> February, 2025.

Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin