

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE BASANT BALAJI

WEDNESDAY, THE 20TH DAY OF MAY 2026 / 30TH VAISAKHA, 1948

ITA NO. 71 OF 2026

AGAINST THE ORDER DATED 10.06.2025 OF THE INCOME TAX APPELLATE
TRIBUNAL, COCHIN BENCH, IN ITA NO.305/COCH/2024-AY 2016-17

APPELLANT/APPELLANT/ASSESSEE:

ALICE ARUN THOMAS, AGED 45 YEARS
BABY MEMMORIAL BLDG; BABY MEMMORIAL BLDG; KANNATTU ARUN
FINANCE M C ROAD CHENGANNUR ,KERALA, PIN - 689121

BY ADV SMT.G.CHITRA

RESPONDENT/RESPONDENT/REVENUE:

THE INCOME TAX OFFICER
WARD-3, OFFICE OF ADDL CIT, THIRUVALLA RANGE, T.K ROAD,
THIRUVALLA, KERALA, PIN - 689101

SRI JOSE JOSEPH-SC

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
20.05.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

Devan Ramachandran, J.

This appeal challenges the order of the Income Tax Appellate Tribunal (ITAT), Cochin Bench – a copy of which having been produced and marked on record as Annexure-C.

2. Sri.Anil D.Nair, learned senior counsel, instructed by Smt.G.Chitra – appearing for the appellant, argued that the learned Tribunal has erred in not acceding to his client's claim for exemption under Section 36(1)(iii) of the Income Tax Act (for short 'the Act') because, she has established, through cogent means, that the amount in question comprises of the interest that she derives on account of an investment. The learned senior counsel argued that the finding of the learned Tribunal, that his client's claim is hit by Section 37(1) of 'the Act' is untenable.

3. Sri.Jose Joseph – learned standing counsel for the respondent, in response, argued that the facts of this case would establish ineluctably that what the appellant receives



from the Firm - of which she is a partner, are profits, which cannot be construed as expenditure at the hands of the former; and hence that her claim under Section 36(1)(iii) of 'the Act' is misdirected and misconceived. He insisted that the learned Tribunal has acted without error and prayed that this appeal be dismissed.

4. We have examined the pleadings on record, as also the questions of law framed; and have tested them on the touchstone of the submissions made before us at the Bar.

5. Sri.Anil D.Nair – learned senior counsel, explained that his client borrows money from the open market and then invests it in the Firm of which she is a partner, treating it as her capital. He pointed out that the Firm, in turn, pays her interest on such investment, so that she can then pay it off to the persons from whom she had borrowed; thus being fully deserving of being construed as eligible for deduction under Section 36(1)(iii) of 'the Act'. He argued that any interest received by his client in respect of capital borrowed for the purpose of the business or profession, would be eligible for deduction; and therefore, that the learned Tribunal has erred.

6. We notice that the learned Tribunal has assessed the



factual situation also, to *inter alia* hold that the provisions of Section 37(1) of 'the Act' would stand against the appellant from claiming any deduction.

7. In our view, the provisions of Section 36(1)(iii) of the Act would disallow any claim of deduction by the appellant because, she admits that after she borrowed money from others, it has been invested in the Firm as her capital. Going by Section 36(1)(iii) of 'the Act', it is only that amount which is paid as interest in respect of capital borrowed for the purpose of business or profession, that can be exempted. In this case, the appellant does not have even a whispering contention that she is running any business on her own, or that she has borrowed for the purpose of capital for such. Her conceded case is that she had borrowed, to invest it as her capital in a Firm; and that the latter is running the business. Obviously, therefore, the submissions of Sri.Jose Joseph, that only the Firm could have made any such claim – even if assumed to be eligible - stands on *terra firma*.

In such circumstances, we see no reason to intervene and conclude that the learned Tribunal has acted without error.

Axiomatically, this appeal is dismissed; and



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consequently, we do not deem it necessary or requisite to answer any of the questions raised.

Sd/- DEVAN RAMACHANDRAN
JUDGE

Sd/- BASANT BALAJI
JUDGE

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APPENDIX OF ITA NO. 71 OF 2026

PETITIONER ANNEXURES

- Annexure-A** A TRUE COPY OF THE ASST ORDER U/S. 143(3)
DATED 24.12.2018 ALONG WITH DEMAND NOTICE
FOR THE AY 2016-17 PASSED BY THE ASSESSING
OFFICER
- Annexure-B** A TRUE COPY OF THE ORDER OF THE CIT(A)-
III, KOCHI, DATED 26.02.2024 IN IN APPEAL
NO. CIT (A), KOTTAYAM/10259/2018-19
- Annexure-C** CERTIFIED COPY OF THE ORDER IN ITA
NO.305/COCH/2024 DATED 10.06.2025
- Annexure-D** THE TRUE COPY OF THE NOTICE ISSUED UNDER
SECTION 143(2) ISSUED BY THE ASSESSING
OFFICER DATED 17.07.2017