

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH: AMRITSAR  
BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER AND  
DR. MITHA LAL MEENA, ACCOUNTANT MEMBER**

**I.T.A No. 141/ASR/2019  
(ASSESSMENT YEAR: 2013-14)**

KartarAgro Mills Pvt. Ltd. Village Ghaloti, Post Office-Kot-Ise-Khan, Moga-Punjab [PAN: AABCK3132H] <b>(Assessee)</b>	<b>Vs.</b>	Income Tax Officer Ward-1, Moga- Punjab  <b>(Revenue)</b>
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<b>Assessee by</b>	<b>Sh. P. N. Arora, Advocate</b>
<b>Revenue by</b>	<b>Sh. S. M. Surendranath, D.R.</b>

<b>Date of Hearing</b>	<b>16.09.2021</b>
<b>Date of Pronouncement</b>	<b>20.09.2021</b>

**ORDER**

**Per Laliet Kumar, JM:**

The present appeal filed by the assessee feeling aggrieved by the order of Ld. CIT(A)-3, Ludhiana, dated 11.10.2018 for A.Y. 2013-14

2. The assessee has raised the followings grounds of appeal:

- “1. *That the assessment order as well as the order of Learned CIT(A), Ludhiana, both are against the facts of the case and are untenable under the law.*

2. *That no reasonable opportunity of being heard was allowed by the A.O. before passing the order. As such, the assessment order is bad in law and is liable to be cancelled. Again, the worthy CIT(A) has grossly erred in confirming the order of the AO.*
3. *That the order of the Ld CIT(A) is illegal, invalid and void abinitio and the CIT(A) has confirmed the addition without applying her mind and without appreciating the facts of the case.*
4. *That the Ld CIT(A) did not appreciate that no notice was served on the assessee and no proper and reasonable opportunity of being heard was allowed and as such the order of the CIT(A) is bad in the eyes of law and is liable to be cancelled.*
5. *That the books of accounts of the assessee were never rejected and the books of accounts are duly audited and they are maintained in due course of business. The provisions of section 145(3) were never invoked and as such no addition can be made.*
6. *That the AO has grossly erred in making adhoc addition of Rs. 500000/- without pointing out any specific items of inadmissible nature. This is a tax audit case and the books of accounts are subject to audit. No omission or commission has been pointed out by the AO during the course of assessment proceeding. All the sales and purchases are vouched. As such no addition is called for and the addition made by the AO and confirmed by the CIT(A) may be deleted as no defect whatsoever has been pointed out by the authorities below. The provisions of section 143(3) are not at all applicable. Alternatively the addition sustained by the worthy CIT(A) is very high & excessive.*

7. *That again the CIT(A) has erred in confirming the disallowance of Rs. 51044/- on account of disallowance of proportionate interest on debit balance under the provisions of section 36(1)(iii) of the IT Act, 1961. The authorities below did not appreciate that the borrowed fund was exclusively used for business purpose only and the debit balances which were appearing were either old one or they are related to business. The AO as well as CIT(A) have not been able to pin point even one of the item on which the interest is disallowable. As such the interest paid should have been allowed in toto. The AO has not been able to place any material or evidence or reason on record for justifying the disallowance. It is prayed that interest paid is in accordance with the law and as such the addition made is liable to be deleted.*
8. *That again the CIT(A) has erred in confirming the addition of Rs. 47,99,802/- on account of cessation of liability created under the head 'Sundry Creditors' u/s. 41(1) of the IT Act, 1961. The AO did not appreciate that this case does not fall within the mischief of section 41(1) of the IT Act, 1961. That the CIT(A) has again grossly erred in confirming the same and no disallowance can be made by unilateral act of the department. The AO did not appreciate that these liabilities were still outstanding and it was still payable by the Company. There was no reason for treating the same u/s. 41(1). The CIT(A) has grossly erred in confirming the same without appreciating the facts of the cases. The authorities below have not been able to place any material on record to prove that there was cessation of liability and as such this case is clearly not covered within the meaning of section 41(1). As such the addition made is purely based on conjectures, surmises and suppositions and the addition made may be deleted.*
9. *That any other ground of appeal which may be urged at the time of hearing of the appeal."*

3. The Ld. AR for the assessee had drawn our attention to paragraph 4 of the CIT(A) order, on the basis on which that it was submitted that the appeal was decided ex-parte as none attend the hearing on behalf of the assessee as ex-parte. However, it was submitted that the Ld. CIT(A) had merely reproduced the order of the Assessing Officer and upheld the same. It was submitted that the assessee be kinly one more opportunity to appear before the CIT(A) and direction be issued for deciding the appeal in accordance with law.

4. Per contra DR for the revenue had vehemently relied upon the order passed by the assessing officer as well as by the CIT (A).

5. We have considered the rival contention of the parties and perused the material available on record, including the judgments cited at bar during the course of hearing by both the parties. In the light of the above we set aside the order passed by the Commissioner and remand the matter to CIT (A). The CIT(A) is directed to pass fresh speaking order, in terms of direction given herein above, after following the principle of natural justice and affording the opportunity of hearing to the assessee. Further we direct the assessee to appear on date and time and panel in which the Ld. CIT(A) issued the notice and grant the hearing. This makes clear that the assessee shall not take any undue adjournment in the matter and in the remand proceedings and shall cooperate any early disposal of the appeal.

6. In the light of the above, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 20/09/2021.**

**Sd/  
(DR. M.L. MEENA)  
ACCOUNTANT MEMBER**

**Sd/-  
(LALIET KUMAR)  
JUDICIALMEMBER**

**Dated 20/09/2021**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

True Copy

By Order