



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.237/CTK/2024**  
Assessment Year : 2017-18

Choudhury Dall Mill Private Limited, Chandni Chowk, Cuttack	Vs.	DCIT, Assessment Circle-2(1), Cuttack
PAN/GIR No.AADCC 0667 R		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Mohit Sheth, AR  
Revenue by : Shri Sanjay Kumar, CIT DR

**Date of Hearing : 12/8/2024**  
**Date of Pronouncement : 12/8/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 24.5.2024 in Appeal No. CIT(A),Cuttack/10371/2019-2020 for the assessment year 2017-18.

2. Shri Mohit Sheth, Id AR appeared for the assessee and Shri Sanjay Kumar, CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is running a Dall Mill. It was the submission that the assessee purchases raw dall from cultivators, process them and then sell the same. It was the submission that the purchases and sales by the assessee have been accepted by the Assessing Officer. However, the Assessing Officer invoked the provisions of section 40A(3) of the Act to bring to tax the payments made to the cultivators in excess of Rs.20,000/-. It was the submission that consequently, in para 3.1.2 and 3.1.3, the Assessing Officer disallowed the purchases made from the cultivators to an extent of Rs.4,68,12,680/- in toto. It was the submission that in the assessment order itself in para 3.1.2, the Assessing Officer has mentioned that the purchases were made from the cultivators. Id AR has placed before us the copies of purchase vouchers as also weigh bills in respect of goods which have crossed the Jagatpur Check Post and contain the signature of the Check Post Officer. Samples are as follows:

PURCHASE VOUCHER

**M/s. Choudhury Dall Mill (P) Ltd.**  
JAGATPUR, CUTTACK - 754 021

Mob. : 9437017318  
9437077318

No. 291 Date 16-4

Seller's Name Prasanta Jena Address Padaspur

DESCRIPTION	Rate	Amount	
		Rs.	P.
Gota maong 250	6200/-	155000	00
<b>TOTAL</b>		<b>155000</b>	<b>00</b>

Rupees.....

TIN - 21943301410

SI.No-1 to 500

Seller's Signature *[Signature]*

PURCHASE VOUCHER

**M/s. Choudhury Dall Mill (P) Ltd.**  
JAGATPUR, CUTTACK - 754 021

Mob. : 9437017318  
9437077318

No. 290 Date 16-4-16

Seller's Name Prabhat Boudh Address Padaspur

DESCRIPTION	Rate	Amount	
		Rs.	P.
Gota maong 250	6200/-	155000	00
<b>TOTAL</b>		<b>155000</b>	<b>00</b>

Rupees.....

TIN - 21943301410

SI.No-1 to 500

Seller's Signature *[Signature]*

**M/s. Choudhury Dairy Mill (P) Ltd.**  
JAGTAPUR, CUTTACK - 751 001

100

13

This is to certify that I own.....13.....  
Acres of Agricultural and Cultivated land  
in the district of Cuttack.....The  
good sold to you is product of the said  
agricultural land.

**M/s. Choudhury Dairy Mill (P) Ltd.**  
JAGTAPUR, CUTTACK - 751 001

100

13

This is to certify that I own.....13.....  
Acres of Agricultural and Cultivated land  
in the district of Cuttack.....The  
good sold to you is product of the said  
agricultural land.

ANNEXTURE - V FORM XXXII FORM OF WAY - BILL Date: 6-06-16

1. (a) Name and address of the person consigning goods: Chetankrupa Iron Mill (P) Ltd,  
 (b) If he is a dealer, Registration Certificate No. under the O.S.T. Act: Sagarputra, Cuttack  
 and the name of the concerned Sales Tax Circle: TN-21943501410

2. Full address of the place :  
 (a) From which they are consigned: Naugaon To Sagarputra  
 (b) To which they are consigned:

3. (a) Description of the goods: Black green 20A  
 (b) Quantity of the weight:  
 (c) Value of the goods: RS. 200000/-

4. (a) Name and address of the owner of the goods vehicle or boat by which the goods are consigned: OROSU  
 (b) Number of the goods vehicle or boat: 7933

5. If the consignor is transporting goods in purchase of a sale for the purpose of delivery to the buyer the name and address of the person to whom the goods are sold, his registration certificate number of the Orissa Sales Tax Act. If he is a dealer, his bill number and date relating to the sale. RS. 10,00,000/- 7-4-16

6. If the consignor is transporting goods after purchasing them, the name and address of the person from whom the goods were purchased his registration certificate number and date relating to the purchase. Babuti Sahoo Naugaon

7. If the consignor is transporting the goods from one of his shops or godown to an agent for sale or for one his shops or godowns to another for purpose or storage or sale, the address of the agent or of the shop or godown to which the transport is made. Purchase Voucher NO. 222

I/we ..... Certify that to the best of my / our knowledge the particulars furnished above are true, and correct.

Signature of the Consignor

4. It was the submission that the addition as made by the Assessing Officer and as confirmed by the Id CIT(A) is liable to be deleted insofar as

the purchases have been made from the cultivators and the same is exempt in view of the Circular issued by CBDT No.27/2017 dated 3.11.2017, which reads as follows:

"F.No.370149/213/2017-TPL  
Government of India  
Ministry of Finance  
Department of Revenue  
(Central Board of Direct Taxes)

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Circular No. 27/2017  
New Delhi, Dated 3 rd November, 2017

Clarification on Cash sale of agricultural produce by cultivators/ agriculturist

Representations have been received from the stakeholders . regarding applicability of income-tax provision to cash sale of agricultural produce by cultivators/agriculturists to traders.

2. In this context, it is stated that the provisions of section 40A (3) of the Income-tax Act, 1961 ('the Act') provides for the disallowances of expenditure exceeding Rs. 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, rule 6DD of the Income-tax Rules, 1962 ('IT Rules') carves out certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which inter alia include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A(3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator.

3. Further, section 269ST, subject to certain exceptions, prohibits receipt of Rs.2 lakh or more otherwise than by an account payee cheque/draft or by use

of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of Rs. 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act.

4. Further also the provisions relating to quoting of PAN or furnishing of Form No.60 under rule 114B of the IT Rules do not apply to the sale transaction of Rs.2 Lakh or less.

5. In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:-

a) result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader.

b) attract prohibition under section 269ST of the Act in the case of the cultivator; and

c) require the cultivator to quote his PAN/ or furnish Form No.60.

Sd/-

Dr. T.S.Mapwal

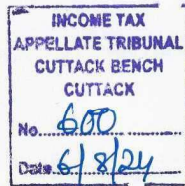
Under Secretary to the Government of India

5. Ld AR has also filed written submission, as follows:

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Honble Dr. Member

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK .



In the matter of -  
I.T.A. No. 237/CTK/2024

And

In the matter of -  
CHOUDHURY DALL MILL PRIVATE LIMITED.  
Cuttack.

Dr  
06/8/2024  
B/1.  
fiscal 000  
12/8/24

Re : Asst. Year - 2017-18

Written Submission

Facts of the Case -

The appellant is a company engaged in milling of Dall such as Gram Dall . The assessee having a Dall Mill business and derives income from milling and processing of raw pulses to finished produces. During the year under consideration the AO verified all the books of accounts and found that cash payment was made to the cultivators towards purchase of agricultural produce. The purchases are directly made from the cultivators and has been supported by declaration by such cultivators or say seller that they are the cultivators in respect of the agricultural produce they sell. It is also they agree that they are the growers of the agricultural produce which are sold to the assessee directly. They are not traders. The appellant during the time of ripe of crops purchases directly from the cultivators and no middle man involved. Those purchases are made through vouchers duly signed by the cultivators and every vouchers contains declaration by the cultivators that they are the cultivators. All the vouchers were duly verified by the AO during the course of assessment proceedings and the same were also furnished before the CIT(A) during the course of appeal proceedings but the learned AO did not consider the materials produced and the explanation given. The Ld. CIT(A) without applying his mind and going into the fact had just dismiss the appeal. The Ld. CIT(A) had just followed the order of the AO and had dismissed the appeal.

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The agriculture produce were purchased from the agriculturist directly and the purchase vouchers were duly signed by them when the purchases were made. On the back of the purchase voucher, it was also certified that they are agriculturist and they cultivate land and produce pulses like Gota Moong, Green Gram Dall. The purchases of the agricultural produce are also verified through waybill by Govt. Department and taxes are collected by them. Copy of the Waybill were also furnished before the AO as well as the CIT(A) for their verification. Moreover, the appellant furnished the Circular No.27 dt.03.11.2017 wherein as per CIT(A) it is applicable only where the cash payment falling u/s.40a(3) are proved to have been made to cultivators of agricultural produce. In the appellant case the purchase voucher furnished before the AO established the payment made to agriculturist and thus it falls under the purview of Sec.40a(3). As per para 3.1.2 Page No.2 of the Assessment Order , the AO states that “ *on verification of cash book, it was found that on various dates payment are shown to have been made to **Cultivators** in cash against distinct invoice no* ”. Thus the books of accounts were thoroughly verified by the AO and the AO has found that purchases are made from cultivators and payments are made to such cultivator. The AO thus agrees to the fact but the sake of addition the AO made the assessment.

Copy of the Circular No.27 dt.03.11.2017 is attached herewith which is applicable to the appellant.

Copy of the some purchase vouchers are also attached for verification.

Copy of the certain waybill form are also attached for verification.

**Prayer :**

The appellant prays your honour to be kind enough to consider the submission and delete the addition in the interest of justice.

Cuttack.

  
**Adv. Mohit Sheth**  
Mob : 9437027821  
E-mail- mohitbhaisheth@gmail.com

6. In reply, Id CIT DR vehemently supported the order of the AO and Id CIT(A). Ld CIT DR drew our attention to page 4 of the assessment order to

submit that on verification of the certificate issued by the cultivators, which are nothing but the seal on the backside of the vouchers and did not contain the name of the cultivators and handwritings of the same.

7. We have considered the rival submissions. A perusal of the vouchers, most specifically back side of the vouchers clearly shows that the certificate issued but the cultivators are nothing but the filling up the seal, which has been put on the backside of the vouchers. The front of the vouchers clearly shows the name, quantity and amount and in the back of the vouchers, the area, and quantum of land is also mentioned. A perusal of the assessment order in para 3.1.2 also shows that the Assessing Officer also recognizes that the payments have been made to cultivators. In these circumstances, in view of the provisions of Rule 6DD(e) and the circular issued by CBDT No.27/2017 dated 3.11.2017, as the payments have been made to cultivators, no disallowance u/s 40A(3) of the Act is called for. In these circumstances, the addition as made by the AO and confirmed by Id CIT(A) of Rs.4,68,12,680/- stands deleted.

8. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 12/08/2024.

Sd/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 12/08/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Choudhury Dall Mill Private Limited, Chandni Chowk, Cuttack
2. The Respondent: DCIT, Assessment Circle-2(1), Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.Secretary  
**ITAT, Cuttack**

