

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.352/Ahd/2021  
(Assessment Year: 2016-17)

Rajeshbhai Naranbhai Patel, Sardar Falia, At PO Fartikui, Tal. Dabhoi, Vadodara-391110.	Vs.	The A.C.I.T, Circle-1(3), Vadodara.
[PAN No.ASKPP8858K]		

**And**

I.T.A. No.15/Ahd/2022  
(Assessment Year: 2016-17)

The J.C.I.T(OSD), Circle-1(1)(1), Vadodara.	Vs.	Rajeshbhai Naranbhai Patel, Sardar Falia, At PO Fartikui, Tal. Dabhoi, Vadodara-391110.
[PAN No.ASKPP8858K]		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Tushar Hemani, Sr Advocate with Shri Parimalsinh B Parmar, AR
<b>Respondent by:</b>	Shri Durga Dutt, CIT.DR with Shri B. P Srivastava, Sr. DR

<b>Date of Hearing</b>	27.11.2024
<b>Date of Pronouncement</b>	05.12.2024

ORDER

**PER:DR. BRR KUMAR, VICE PRESIDENT:**

The captioned appeals have been filed by the Assessee and the Revenue against the order passed by the Ld. Commissioner of Income Tax

(Appeals), National Faceless Appeal Centre, Delhi, vide order dated 19.11.2024 passed for the Assessment Year 2016-17.

2. The Assessee has taken the following grounds of appeal:

1. *The learned CIT(A) has erred in law and on facts in estimating Gross Profit and making a addition without rejecting the books of account of the appellant.*
2. *The learned CIT(A) has erred in law and on facts in making an addition of Rs.5,15,136/- by estimating Gross Profit at the rate of 5.02%.*
3. *In any case, the GP estimation is on the higher side.*
4. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
5. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s.234A/B/C of the Act.*
6. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in initiating penalty u/s.271(1)(c) of the Act.*
7. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

3. The Revenue has taken the following grounds of appeal:

1. *On the facts and in the circumstances of the case and in law, the Ld.CIT (Appeals) has erred in deleting the addition of Rs. 12,92,16,100/- made by the Assessing Officer u/s 40A(3) of the I.T. Act holding that there is no case for disallowance u/s 40A(3) of the I.T. Act without appreciating the fact that the addition was made on account of expenses incurred in contravention of the provisions of Section 40A(3) of the I.T. Act and not on account non-genuine claim of expenses.*
2. *On the facts and in the circumstances of the case and in law, the Ld. CIT (Appeals) has erred in ignoring the fact that the addition was made on account of expenses incurred in contravention of the provisions of Section 40A(3) of the I.T. Act and also erred in estimating the gross profit holding that general disallowance due to substantial cash purchase can be made by comparing average G.P. for past years to take into account any element of profit suppression due to substantial cash purchases without appreciating the fact that the addition was not made on account of substantial cash purchases.*
3. *On the facts and in the circumstances of the case and in law, the Ld.CIT (Appeals) has erred in deleting the addition of Rs. 12,92,16,100/- made by the Assessing Officer u/s 40A(3) of the Act without appreciating the fact that as per the land holding documents submitted by the assessee during the course of assessment proceedings, the farmers have cultivated Kapas*

*(cotton) in their agricultural land whereas the assessee was not dealing in the business of Kapas (cotton) in the relevant financial year and the assessee has failed to submit any documentary evidence to prove that the farmers have cultivated the produce, which were claimed to have been purchased by the assessee from them, either in the agricultural land owned by them or the land taken on lease.*

4. *On the facts and in the circumstances of the case and in law, the Ld.CIT (Appeals) has erred in deleting the addition u/s 40A(3) of the Act without appreciating the fact that the supporting evidences produced by the assessee were showing that the farmers were producing kapas (cotton) whereas the assessee was not dealing in cotton which shows that the agricultural produce purchased by the assessee were not cultivated by them and, therefore, the same are not covered by the provisions of Rule 6DD(e) (i) of the I.T. Rules.*
5. *On the facts and in the circumstances of the case and in law, the Ld.CIT (Appeals) has erred in deleting the addition made u/s 40A(3) of the I.T. Act without appreciating the fact that the assessee has not purchased the Kapas (cotton) which were produced by the farmers as per the land documents submitted during the assessment proceedings and hence the persons who sold the agricultural produce to the assessee cannot be said to be farmers and accordingly the agricultural produce purchased by the assessee for which payments exceeding Rs.20,000/- were made are not covered by the provisions of Rule 6DD(e) (i) of the I.T. Rules.*

3. In this case the return of income has been filed by the assessee declaring total income of Rs.22,38,020/- and the assessment has been completed determining the total income at Rs.13,14,54,120/- by making addition of Rs.12,92,16,100/- u/s. 40A(3) of the Act. The Ld.CIT(A), deleted the addition made by the Assessing Officer u/s.40A(3) of the Act on the ground that the provisions of Rule 6DD(e)(i) are applicable to the assessee. Having deleted the addition made u/s.40A(3) of the Act, the Ld.CIT(A) determined the gross profit at the rate of 5.02 % based on the average gross profit of the earlier years.

4. Aggrieved assessee filed an appeal before us.

5. Having gone through the record before us, we find that the Ld.CIT(A) has rightly deleted the addition vide u/s.40A(3) of the Act, as the assessee purchased agricultural produced directly from the farmers. The confirmation of the farmers and 7/12 extract of the farmers are on record

which are not disputed. Similarly, the Ld.CIT(A), has also considered the gross profit of earlier years in determining the taxable income of the assessee. Hence, we decline to interfere with the order of the Ld.CIT(A).

6. In the result, the appeal of the assessee as well as revenue stands dismissed.

**This Order is pronounced in Open Court on 05.12.2024**

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

(True Copy)

Ahmedabad; Dated 05.12.2024  
Manish, Sr. PS

**Sd/-**  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad