

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.132/Nag./2023**

**(Assessment Year : 2014-15)**

Ajaz Ahmad  
Near Dr. Shukla Hospital  
Rizwan Mahal, Deepak Chowk  
Gangadhar Plot, Akola 444 002  
PAN – AIGPA5586R

..... Appellant

v/s

Income Tax Officer  
Ward-1, Akola

..... Respondent

Assessee by : Shri Mahavir Atal  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/01/2025

Date of Order – 28/01/2025

**ORDER**

The captioned appeal by the assessee is emanating from the impugned order dated 13/03/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

*"1. Whether on the facts and circumstances of the case, the Hon'ble CIT-A was justified in affirming the order passed by the Assessing Officer treating the agents as traders, when all the material on record proves that besides being Cultivators, those person acted as agent of Cultivators, which is in consonance of Indian Contract Act and exception mentioned in Rule 6DD of I T Rules.*

2. *Whether on the facts and circumstances of the case, the Hon'ble CIT-A was justified in affirming the order passed by the Assessing Officer disallowing the cash payments made to Cultivators through their Agents.*

3. *Whether on the facts and circumstances of the case, the Hon'ble CIT-A was justified in affirming the order passed by the Assessing Officer treating the cash payments as disallowable u/s 40A(3) of the IT Act, 1961 on mere misunderstanding of facts*

4. *Whether on the facts and circumstances of the case, the Hon'ble CIT-A was justified in affirming the order passed by the Assessing Officer not accepting the facts of the case, CBDT instructions and various case laws in this regard.*

5. *The appellant seeks leave to add, amend or alter any other ground at the time of hearing of this appeal before your kindness."*

3. Facts in Brief:- In this case, the assessee is engaged in the business of ginning and pressing of grains and also earned income from job work under proprietary concern in the name and style of "Saibaba Ginning and Pressing". For the year under consideration, the assessee filed its return of income on 29/11/2014, declaring total income at ₹ 4,76,840. The case was then selected for complete scrutiny under CASS.

4. The assessee for his factory, procure raw cotton from cultivators or their agents, who belongs to remote places. To run factory sometimes the assessee pays in cash, which is except under Rule 6DD. The assessee was issued show cause for cash paid to six persons citing provisions of section 40A(3) of the Act. These six persons, besides being Cultivator are Agents of Cultivators, the assessee furnished affidavits of four persons confirming same facts. Affidavits of 2 persons were not available immediately, so the Assessing Officer disallowed cash payments of ₹ 26,49,040, being in excess ₹ 20,000 under section 40A(3) of the Act, citing the reason that out of six persons, two persons, whose affidavits were not available, were treated as Traders. The

Assessing Officer was of the view that the exception mentioned in Rule 6DD(g) is not applicable in this case. The assessee has paid in cash more than ₹ 20,000, per day to these 2 parties, who are not his agent. These parties are resident of Patur where banking facilities are available. Hence these parties are not eligible for any exception mentioned in rule 6DD. Thus, the Assessing Officer held that the amount of ₹ 21,72,200, paid to these two parties are violation of section 40A(3) of the Act. In view of the above amount of ₹ 21,72,200, was disallowed by the Assessing Officer in view of the provisions of section 40A(3) of the Act and added to income of the assessee.

5. On appeal, the learned CIT(A) dismissed the appeal of the assessee by holding as under:-

*"During the course of appellate proceedings, it was submitted that the assessee has provided all details during the course of assessment proceedings on these 2 parties to whom the payments has been made. It is also pointed out by the A.O. that these parties are not his agent. These parties are resident of Patur where banking facilities are available, therefore, these parties are not eligible for any exception mentioned in rule 6DD of IT Rules and it was further submitted that A.O. has not considered the provisions of Rules 6DD of the Income Tax Rules, 1962 r.w.s. Section 40A(3) of the IT Act. However, during the course of appellate proceedings also the appellant was not able to explain the genuine circumstances under which the payment has been made in violation to provision of section 40A(3) and how the case of the appellant is covered under rule 6DD of the Income Tax Rules, 1962. Accordingly I hold that the A.O. has correctly disallowed the sum of Rs. 21,72,200/- as cash payment to these two parties are in violation to provision of section 40A(3) of the IT Act Hence, the addition made by AO is sustained and grounds of appeal are dismissed."*

6. Before me, the learned Authorised Representative vehemently submitted that the payments are covered under rule 6DD(e), where agricultural products are purchased from grower or producer of such items.

He invited our attention to the statement recorded under section 131 of the Act. Question no.6 and answer thereto is reproduced below:–

*"Q.6 The case of Shri Ajaj Ajij Ahmad, prop. of Saibaba Ginning and pressing factory, Tq. Patur, Distt. Akola (PAN: AIGPA5586R) is under scrutiny for A. Y. 2014-15. As per his audited books of accounts, he has purchased raw cotton from you amounting Rs. 12,67,072/- during the F. Y. 2013-14. Have you sold the cotton of Rs. 12,67,072/- to Shri Ajaj Ajij Ginning and pressing factory, Tq. Patur during the F. Y. 2013-14? Ahmad, prop. of Saibaba*

*Ans. During the F. Y. 2013-14, I run vehicle. I collect the cotton, toor, Jawar, Soyabin etc from farmers and supplied the goods at their destination. I supplied cotton of other farmers to Shri Ajaj Ajij Ahmad, prop. of Saibaba Ginning and pressing factory, Tq. Patur. On behalf of this service | received my commission and Labour Charges from farmers. I get only Rs. 2,25,000/- approximately on my own cotton sale."*

7. The learned Departmental Representative prayed that the order of the lower authorities need not be disturbed.
8. Upon careful perusal, it is clear that the payment has been made to farmers either singly or on collective basis. Hence, grounds are allowed.
9. In the result, appeal by the assessee is allowed.

Order pronounced in the open Court on 28/01/2025

**NAGPUR, DATED: 28/01/2025**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur