

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No.378/Kol/2024  
Assessment Year: 2017-18**

**Sitaram Pareek.....Appellant  
CA Anup Kumar Sanghai  
Sanghai & Co, CA  
21, Hemanta Basu Sarani,  
2<sup>nd</sup> Floor, Room No.204, Kolkata -1.  
[PAN:ALQPP5688N]**

**vs.**

**ITO, Ward-36(1), Kolkata.....Respondent**

**I.T.A. No.653/Kol/2024  
Assessment Year: 2017-18**

**ITO, Ward-36(1), Kolkata .....Appellant**

**vs.**

**Sitaram Pareek.....Respondent  
CA Anup Kumar Sanghai  
Sanghai & Co, CA  
21, Hemanta Basu Sarani,  
2<sup>nd</sup> Floor, Room No.204, Kolkata -1.  
[PAN:ALQPP5688N]**

**Appearances by:**

Shri Anup Sanghai, FCA, appeared on behalf of the appellant.

Shri Abhijit Adhikari, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : March 10, 2025

Date of pronouncing the order : March 11, 2025

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The captioned are cross-appeals, one by the assessee and the other by the revenue against the common order dated 29.12.2023 of the National Faceless Appeal Centre [hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). Since the facts and issues involved in both the appeals are identical and both the appeals are arising out of the same order of the Id.

CIT(A), therefore, these have been heard together and are being disposed of by this common order.

2. **ITA No.378/Kol/2024** – The only issue raised by the assessee is against the part-confirmation of addition by the ld. CIT(A) at Rs.9,33,440/- being 2% of the expenditure incurred in cash purely on estimated basis.

3. The facts in brief are that the assessee is an individual and filed his return of income on 13.02.2018 which was selected for limited scrutiny on the ground of huge cash withdrawals. Accordingly, the Assessing Officer issued notices including questionnaire which were duly served upon the assessee. The assessee is engaged in the business of commission agent where the assessee purchases jute on behalf of clients, receives money in his account from the clients, withdraws the money and pays the sellers of jute on behalf of clients. The Assessing Officer found that the assessee received money from various jute industries and after withdrawal the same pays to the growers/cultivators for which the assessee has not kept proper records. Finally, the entire cash withdrawals of Rs.4,66,71,960/- has been treated as unexplained expenditure and added the same u/s 68 to the total income of the assessee in an assessment framed u/s 143(3) of the Act dated 18.12.2019.

4. In appeal, during the appellate proceedings, the ld. CIT(A) partly allowed the appeal of the assessee by observing and holding as under:

*“The assessee acted as "Kachcha Arahtiya" and traded in jute during the FY 2016- 17 on account of its principals-"Jute Mill Agents or Pucca Arahtiya" on commission basis and mediates between the producers on one hand through "Fadiyaars" who purchase the Raw Jute from the producers/growers of jute and purchasers-"Pucca Arahtiya or Jute Mill Agents" on the other hand. The Appellant was entitled to receive the commission and certain out of pocket expenses. The only source of income of the Appellant was the commission income received by him from*

*engaging in the business of arranging for the delivery of the jute to the clients.*

*The Appellant further submitted that his turnover for the FY 2016-17 only included the commission income and did not include the sales effected on behalf of the principals which is in compliance with the CBDT Circular: No.452 [F.No.201/3/85- IT (A-II)], dated 17-3-1986). [Copy of the CBDT Circular No 452 was enclosed vide Annexure-2: No. Of Pages-02).*

*The assessee had received the money from the purchaser of jute Le. "Jute Mill Agents or Pucca Arahtiya' through the banking channel for arranging for the delivery of the jute to them as the commission agent.*

*It was submitted that the amount received by the Appellant from the purchaser of the jute during the FY 2016-17 was through the banking Channel and the same was duly reflected in the Bank Statement of DCB Bank of the Appellant. The amount received by the Appellant from the purchaser of the jute was consecutively withdrawn by the Appellant for making the payment to the Fadiyaars in cash. The same is being duly reflected in the Bank Statement of DCB Bank, Brabourne Kolkata, of the Appellant for the period 01.04.2016 to 31.03.2017 showing the receipt of the money and withdrawal of the money consecutively.*

*It was submitted that the Appellant was under business expediency to make the payment in cash because of the absence of proper banking facilities available with the producers of the jute. Moreover, the producers normally belong to the remote areas and also did not have the bank accounts. As such the Appellant to carry on his business and on insistence from the producers had made the payment in cash to the producers of jute during the FY 2016-17.*

*From the above, it is clear that the source of money, that was withdrawn, was money received from "Jute Mill Agents or Pucca Arahtilyas". Therefore in my opinion, no addition can be made on account of source of cash withdrawn.*

*However when assessee was asked to give address of recipient of money, the Appellant submitted that he could not produce/furnish the Fadiyaars or the producers and address of the Fadiyaars or producers of jute from whom the jute was purchased and cash payment was made because they were usually known by their village name they come from and thus, it was difficult to track them. The Appellant submitted that the several payments made by the Appellant to the various producer of the jute during the FY 2016-17 relevant to the AY 2017-18, does not exceeds the limits as prescribed u/s 40A(3) of the Income Tax Act, 1961 i.e. payment made to the single party on the single day exceeds the limit of Rs. 10,000/-, being the payment made otherwise than by an account payee cheque or an account payee bank draft or through the use of Electronic clearing system.*

*The above shows that the assessee was able to explain the source of amount withdrawn but failed to substantiate the expenditure incurred (payment made to Fadiyaars or producers of jute).*

*Considering the facts of the case and nature of business i.e. Kachcha Arahtiya; it would be just to disallow 2% of expenditure incurred in cash.*

*Addition of Rs.9,33,440/- is therefore confirmed. The AO is directed to delete balance addition.”*

5. After hearing the rival contentions and perusing the materials available on record, we note that the assessee is acting on behalf of the jute mills as Kachcha Arahtiya on commission basis. The assessee has been engaged in this business for the past several years and continuously following the same system of accounting as well i.e. receiving payments from jute mills and passing the same to cultivators/jute growers and the revenue has accepted the income of the assessee in all the assessment years in the summary proceedings u/s 143(1) of the Act. Besides, we further note that there are no pending proceedings against the assessee in any other assessment year where the case of the assessee has been reopened on the basis of any scrutiny proceedings for current assessment year. We again note that the Id. CIT(A) has simply confirmed the addition partly @ 2% of total expenditure incurred in cash without any reasoning. We note that the Id. CIT(A) has partly confirmed the addition on surmises and presumption without any basis and therefore the appellate order cannot be sustained. Accordingly, we set aside the order of the Id. CIT(A) and accordingly direct the Assessing Officer to delete the impugned addition.

6. **ITA No.653/Kol/2024** – So far as the revenue’s appeal is concerned, the same is preferred by the revenue challenging the appellate order where the Id. CIT(A) partly allowed the appeal of the assessee by holding the addition to the extent of 98%. Since, we have already decided the instant issue in favour of the assessee in assessee’s appeal in ITA

No.378/Kol/2024, therefore, the present appeal of the revenue becomes infructuous and is dismissed accordingly.

7. In the result, the appeal of the assessee is allowed, whereas, the appeal of the revenue is dismissed.

***Kolkata, the 11<sup>th</sup> March, 2025.***

Sd/-  
**[Pradip Kumar Choubey]**  
**Judicial Member**

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Dated: 11.03.2025.

RS

*Copy of the order forwarded to:*

1. Sitaram Pareek
2. ITO, Ward-36(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches