

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos.199/PAN/2023
(A.Y. 2020-21)

Krishna Plantations Pvt Ltd, 15/1452,NanuHouse, Varde Valaulikar Road, Margoa-403601, Goa.	Vs .	National Faceless Assessment Centre, 2 floor, F-Ramp, Jawaharlal Nehru Stadium, New Delhi-110003
PAN/GIR No. AAACK6885G		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Smt.Bhavya Goyal.AR
Revenue by	Shri.Ravindra Hattalli Sr.DR

सुनवाई की तारीख/Date of Hearing	20.03.2025
घोषणा की तारीख/Date of Pronouncement	08.05.2025

ORDER

PER PAVAN KUMAR GADALE ,JM:

The assessee has filed the appeal against the order of the NFAC/CIT(A) Delhi passed u/sec143(3) and u/sec 250 of the Act. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the addition made by the Assessing Officer.

2. At the time of hearing, the Ld.AR has not pressed the ground of appeal no.1 and made endorsement; accordingly this ground of appeal is treated as withdrawn and is dismissed.

3. The second ground of appeal No.2, as submitted by the Ld.AR pertains to mistake in the computation of income by the Assessing officer. And since the assessment order u/sec143(3) of the Act is passed on 27-09-2022, the Ld.AR as per the instructions of the assessee, shall file the rectification petition u/sec154 of the Act and this ground of appeal is not pressed and dismissed as withdrawn.

4. The assessee has raised two additional grounds of appeal as under.

(i) The learned Assessing Officer acted against the settlelaw in not providing proper opportunity to assessee while issuing the showcause notice dated 22.09.2022.

(ii) The learned Assessing Officer was not correct under the facts and circumstances in disallowing a sum of Rs.21,62,039/- out of royalty income.

5. The brief facts of the case are that, the assessee company is engaged in the mining business and has filed the return of income for the A.Y.2020-21 disclosing a total income of Rs.40,45,110/- on 26.11.2020 and agriculture income of Rs.1,47,87,286/-. Further the assessee has filed the revised return of income disclosing a total income of Rs.40,45,110/- and net agricultural income of Rs.63,45,354/- on 5.03.2021. Subsequently, the case was selected for complete scrutiny and notice u/sec143(2) and U/sec142(1) of the Act are issued. The assessee in compliance to various notices has submitted the details of

gross agricultural income and the expenditure incurred on carrying out the agricultural operations. The Assessing officer(A.O) also issued show cause notice to treat the expenditure as income from other sources. The assessee has objected to the proposition of the A.O vide letters dealt in the order with the supporting details, evidences on incurring of expenditure on agriculture activities and was accepted by the revenue.

6. On the second disputed issue, the A.O find that the assessee in the F.Y.2019-20 has received royalty income of Rs.76,35,277/- and claimed expenditure aggregating to Rs.24,63,357/- and has offered the net business income of Rs.40,45,110/-.The A.O has issued a show cause notice dated 25-09-2022 to explain and submit the details of royalty income and the expenditure incurred along with the evidences and material in support of the claim. The assessee in compliance to the show cause notice has filed the copy of royalty agreement and breakup details of expenditure incurred. The assessing officer has dealt on the clauses of the agreement, and the nature of expenditure incurred and was not satisfied with the claims and made disallowance of expenditure under various heads aggregating to Rs.21,62,039/-for the want of evidences and explanations and finally assessed the total income of Rs.33,02,000/-and passed the order u/sec143(3) r.w.s144Bof the Act dated 27.09.2022.

7. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and the submissions of the assessee but has confirmed the action of the Assessing officer and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

8. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing Officer overlooking the facts and submissions. Further the Ld.AR emphasized that the assessee in response to the show cause notice dated 22.09.2022 has submitted the details on the disputed issue of claim of expenditure on 24-09-2022 and the Assessing Officer has overlooked the submissions and has made the disallowance of expenditure of Rs.21,62,039/- The Ld.AR mentioned that the expenditure was incurred for earning royalty income and the balance net income was offered as business income, which is not disputed. The Ld.AR substantiated the submissions with facts, synopsis, factual paper book and judicial decisions and prayed for allowing the appeal. Per Contra, the Ld.DR relied on the order of the CIT(A).

9. We heard the rival submissions and perused the material on record. The Ld.AR submitted that the CIT(A) has erred in confirming the addition made by the A.O as the transactions are not supported with the documentary

evidences. The Ld.AR explained that the assessee has submitted the details as called for by the revenue authorities. The Ld.AR submitted that the assessee has filed the information and details mentioning the nature of expenditure for earning the royalty income. The Ld.AR has demonstrated the royalty agreement dated 15-10-2019 placed at page 41 to 48 of the paper book. The Ld.AR emphasized on the additional ground of appeal of not providing sufficient opportunity to the assessee in the assessment proceedings. Whereas the Assessing officer on the disputed issue of claim of expenditure against the royalty income has issued show cause notice dated 22.09.2022 to submit the details of expenditure with the supporting evidences to be filed by 25.09.2022. The assessee could submit the copy of royalty agreement and the break up of expenditure on 24.09.2022, but the Assessing officer has made disallowance of expenditure under various heads aggregating to Rs.21,62,039/-for the want of supporting evidences and passed the order u/sec143(3) r.w.s144Bof the Act dated 27.09.2022. Therefore, we considering the facts, circumstances, date of show cause notice, reply of the assessee and passing of assessment order on 27-09-2022 and the principles of natural justice, shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the disputed issue for limited purpose to the file of the Assessing officer to

adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And, we allow the grounds of appeal of the assessee for statistical purposes.

10. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 08.05.2025.

Sd/-

(GD PADMAHSHALI)
ACCOUNTANT MEMBER

Panaji Dated: 08/05/2025

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			