

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

BEFORE HON’BLE SHRI LALIET KUMAR, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपीलसं./ ITA No. 107/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2023-24)

M/s Deepak Trading Company Shop No 97 New Mandi Kalanwali Sirsa-125201	बनाम/ Vs.	ITO Sirsa.125055
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAEFD-8996-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Pritish Goyal (CA) & Shri Nikhil Garg (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Vivek Vardhan (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	24-06-2025
घोषणाकीतारीख / Date of Pronouncement	:	01-07-2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2023-24 arises out of an order of learned Addl. / Joint Commissioner of Income Tax (Appeals)-4, Kolkata [CIT(A)] dated 26-11-2024 in the matter of an intimation issued by CPC u/s 143(1) on 09-01-2024. The assessee seeks TDS credit which has been restricted by lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. From impugned order, it emerges that the assessee claimed TDS credit of Rs.2,19,451/- Lacs which was restricted by CPC to Rs.40,758/- in terms of Rule 37BA. The assessee acted as *Pucca and Kaccha Arhtiya* and registered with Agricultural Produce Market Committee, Kalanwali. The TDS credit was denied by CPC on the ground of mismatching in turnover in the books vis-à-vis amount as reflected in Form 26AS. The Assessee procured goods from farmers and sold the same on their behalf to traders. The purchaser deducted TDS u/s 194Q on gross value of goods which was reflected in Form 26AS whereas the assessee recorded only commission income in its books of accounts. As per Rule 37BA, TDS credit would be given in the assessment year in which such income was assessable. The assessee stated that it only charged commission and the impugned transactions were not the transaction of sale and purchase and this fact was supported by relevant "I" and "J" forms. The assessee only acted as commission agent and duly accounted for commission income in its books of accounts. As an agent, the assessee did not have any right to sell the goods. As per CBDT circular No. 452 dated 17-03-1986 and Instruction No. 03/2013, the assessee was required to consider the commission income only in its financial statements. However, Ld. CIT(A) observed that as per Form 26AS the sales subjected to TDS u/s 194Q was Rs.16.03 Crores whereas the assessee disclosed sales of Rs.2.84 Crores only. Accordingly, only proportionate TDS credit was allowed to the assessee and credit to the extent of Rs.1,48,044/- was held to be not allowable. Aggrieved, the assessee is in further appeal before us.

3. In our considered opinion, the provisions of Sec.194Q do not determine the taxability of income in the hands of the recipient assessee. These provisions merely put on obligation on payer to deduct TDS on high value purchases. The said provisions target buyers with a specific turnover threshold, requiring them to withhold a portion of their payments as TDS. The purpose of the provisions is to improve the process of tax collection and ensure clear financial transactions. The specified buyers having turnover of more than Rs.10 Crores are required to deduct TDS while making purchases of more than Rs.50 Lacs from a single buyer. However, the gross turnover may not constitute real income of the assessee. The assessee, in the present case, act as a commission agent and sells agricultural produce on behalf of the farmers. The purchasers have deducted TDS while making purchases from the assessee. The assessee, as per statutory mandate, has offered commission income on these transactions. No case has been set up by Ld. CIT(A) that the assessee has concealed the gross sales / turnover or the same do not form part of assessee's books of accounts. The assessee has reimbursed the sale proceeds to the farmers and earned commission out of the same. The Rule 37BA would have no applicability at all since it is not the case that the income arising out of these transactions would be offered to tax in multiple years. There is no dispute that these transactions form part of assessee's books for this year. The TDS has been deducted qua the assessee and the same has duly been reflected in Form 26AS. In the absence of any allegation that any of the transactions as reflected in Form 26AS do not form part of assessee's books for this year, full TDS credit could not be

denied to the assessee. The Ld. AO is accordingly directed to allow full TDS credit to the assessee after due verification of Form 26AS. We order so.

4. The appeal stand allowed in terms of our above order.

Order pronounced on 01-07-2025.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated 01-07-2025.

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH