

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

ITA No. 505 &506 /Jodh/2024
(Assessment Year 2022-23 & 2023-24)

Bhikam Chand Mohta HUF, M/s. Niraj Mohta And Company, 246A New Dhan Mandi, Hanumangarh Junction – 335512 PAN No. AAFHB1577C	Vs.	ITO, Ward-1, Hanumangarh.
Assessee by	Shri Vedant Gupta, C.A.	
Revenue by	Shri Karni Dan, Addl. CIT (Sr. D.R.)	
Date of Hearing	19.05.2025.	
Date of Pronouncement	17.06.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

These appeals by the assessee are directed against the orders even dated 24.05.2024 of the Commissioner of Income Tax, Appeals, ADDL/JCIT(A)-9, Delhi, [hereinafter referred to "the JCIT appeal"] for the Assessment Year 2022-23 and 2023-24 challenging sole and common issue regarding confirming disallowance of the claim of TDS deduction on transaction receipts as Kaccha Arahtia where facts are discussed from ITA No. 505/Jodh/2024.

2. At the outset, the Ld. Counsel for the Appellant submitted that assessee is engaged in the business of sale of agriculture crop produce on behalf of



farmers on commission basis, commonly known as Kachhi Arhatiya, or Commission Agent. The nature of business of the kachha arhtiya is to/with providing of services to the farmer in selling his crop in the recognised Mandies, or the factory owners or the traders on the appropriate market rate, and further kachha arhtiya provide advances to the farmers for cultivation of his crop. For providing such type of services the kachha arhtia generally receive 2 percent commission i.e. arhat of value of crop. As per law the said commission receipt is treated as gross turnover of the kachha arhtiya. Here it is important to note that sale value of the crop sold by the farmer through arhtiya is not to be treated as turnover of the kachha arhtiya. In the present case the assessee is kacha arhtiya and has filed his ITR treating commission income as gross turnover in terms of the CBDT circular no. 452 dated 17.03, 1986.

5. He further submitted that as per CBDT circular a kachha arahtia acts only as an agent of his constituent i.e. farmer and never acts as a principal. The remuneration of a kachha arahtia consists solely of commission and he is not interested in the profits and losses made by his constituent, as the kachha arahtia, does not have any dominion over the goods. The Board has advised that so far as kachha arahtias are concerned, the turnover does not include the sales effected on behalf of the principals and only the gross commission has to be considered for the purpose of section 44AB. In the case of agents whose position



is similar to that of kachha arahitia, the turnover is only the commission and does not include the sales on behalf of the principals.

5. In the present case, the CPC while processing the Return of Income u/s 143(1) of the Act, has accepted Returned income but it has restricted the claim of TDS to Rs. 58,911/- out of Rs. 2,72,207/- in respect with assessment year 2022-23. Thus disallowed the claim of TDS on the ground that gross receipts as per form 26AS is more than that of what were shown in the ITR. This appears due to TDS deducted by the buyer under section 194Q of the Income Tax Act. It is contended by the Ld. AR that Buyer has deducted TDS under section 194Q on the purchase value of crop of the farmer purchased through kacha arhtiya, and it is not the sale or turnover of the kacha arthia, and actually it was sale of the farmer. The Ld. AR pleaded that considering the legal and factual position, the assessee is entitled for credit of whole amount of TDS as claimed in the ITR for the respective assessment years and requested to allow credit of the TDS to the assessee being kacha arhtia as a covered matter by Tribunal decisions.

6. On the other hand, the Ld. Addl. CIT Sr. DR relied on impugned Order. He contended that matter is covered in favour of Revenue by Coordinate Jodhpur Bench Decision in the case of "Ratnesh Garg Vs. ITO" in ITA No. 589/Jodh/2024



Asst. year 2002-23 and several other judgements including Delhi Bench in ITA No. 278/Del/2024 dated 27/03/2024.

7. Having heard both the sides and perusal of record, we find that AO/CPC has not allowed the full credit of the TDS due to the mismatch of total receipt in ITR and Form-26AS. In this respect, appellant in his submission before Ld. CIT(A) and before us has submitted that he is a "Kaccha Arhatia" registered with Rajasthan Krishi Upaj Mandi and works as a middleman. As per the Circular No. 452(F.No. 201/3/85-/T(A-//)], dated 17.03.1986) the aforesaid Kaccha Arhatia acts only as an agent of his constituent and never acts as a principal.

8. It is pertinent to mention that appellant is being a kachha arahitia engaged in selling crops on behalf of farmers and therefore, only gross commission has to be considered for the purpose of computing the turnover in the light of CBDT Circular 452 of 1986 dated 17.03.1986 while computing tax liability. It is clarified that the short credit of TDS granted in respect of TDS deducted against his own PAN is dependent upon filing of TDS statement by the assessee as mandated u/s 199 and rule 37BA(1). If there is any mismatch in the TDS claim as per the return vis-a-vis the TDS statement filed by the deductor. The assessee has been allowed due liberty by the Ld. JCIT(A) that the TDS statement can be rectified by getting appropriate corrections carried out in the TDS statement issued in its name by



the deductor, by filing with the deductor the necessary declarations that TDS be issued in the name of the clients. Accordingly, he held that the appellants claim does not stand forthwith.

9. The coordinate Delhi Bench vide order dated 27.03.2024 in ITA No. 278/DEU2024 in the case of "Sh. Rajesh Kumar vs The DDIT", Bengaluru for A.Y. 2022-23 observed that the appellant should not get benefit of Tax erroneously deducted by the Payer in as much as the assessee has not shown the same as its income/receipts viz-a-viz the turnover as per form No.26AS.

10. The Coordinate Jodhpur Bench in the case of Ratnesh Garg (Supra) has held as under:

7. Having heard both the sides and perusal of record, we find that *AO/CPC has not allowed the full claim of the TDS due to the mismatch of total receipt in ITR and Form-26AS. In this respect, appellant in his submission before Ld. CIT(A) and before us has submitted that he is a "Kaccha Arhatia" registered with Rajasthan Krishi Upaj Mandi and works as a middleman. As per the Circular No. 452(F.No. 201/3/85-/T(A-//)], dated 17.03.1986) the aforesaid Kaccha Arhatia acts only as an agent of his constituent and never acts as a principal.*

8. *The JCIT(A) has not appreciated the facts of the case in right perspective. Considering the peculiar facts of the present cases, the matter is required to be restored to the AO for limited purpose with the direction to examine the contents of the Form 26AS at the time of giving appeal*



effect and give credit of TDS mismatch claimed subject to provision of section 199 of the I. T. Act and rule 37BA of the I. T. Rules. Thus, the AO has to verify the total receipts shown in 26AS and ITR and give credit of TDS to the appellant if the corresponding income has been offered either by the assessee, the Kachha Adatiya or its principle by for taxation in his income tax return in the relevant year after due verification.

9. *Without prejudice to above, it is pertinent to mention that appellant is being a kachha arahitia involved in selling crops on behalf of farmers and therefore, only gross commission has to be considered for the purpose of computing the turnover in the light of aforementioned CBDT Circular 452 of 1986 dated 17.03.1986 while computing tax liability. It is clarified that the short credit of TDS granted in respect of TDS deducted against his own PAN is dependent upon the filing of TDS statement by the deductor as mandated u/s 199 and rule 37BA(1). If there is any mismatch in the TDS claim as per the return vis-a-vis the TDS statement filed by the deductor. The assessee has been allowed due liberty by the LD. JCIT(A) that the TDS statement can be rectified by getting appropriate corrected TDS statement issued filed by the deductor.*

10 *Considering the factual matrix of the case and the CBDT Circular 452 of 1986 dated 17.03.1986, we direct the AO to examine and verify the contents of the Form 26AS at the time of giving appeal effect and give credit of TDS mismatch if any, to the appellant assesses.*

11. *Considering the provisions of law mandated u/s 199 and rule 37BA(1), and the CBDT Circular 452 of 1986 dated 17.03.1986, we find no error in the finding of the Ld. JCIT (A). In view of natural justice, however, we deem it appropriate to*



direct the AO to examine and verify the contents of the Form 26AS on the issue of granting credit of TDS u/s 194Q, at the time of giving appeal effect and give credit of TDS mismatch if any, to the appellant assesses in respect of both the assessment years under consideration on identical facts.

12. In the backdrop of the aforesaid discussion, both these appeals of the assessee are allowed in the manner discussed as above.

Order pronounced on 17/06/2025 in the open Court.

- Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

Dated : 17/06/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

- Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.