

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. 686/Jodh/2024
(Assessment Year 2022-23)

Krishan Lal Om Prakash Shop No. 48, Nai Dhan Mandi, Padampur – 335041. PAN No. AABFK1565H		ITO, Ward-1, Sriganganagar.
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. :

This appeal by the assessee is directed against the order dated 08.08.2024 of the Commissioner of Income Tax, Appeals, ADDL/JCIT(A), Mysore, [hereinafter referred to "the JCIT appeal"] for the Assessment Year 2022-23 and challenging sole and common issue regarding confirming disallowance of the claim credit of TDS on transaction receipts as Kaccha Arahtia.

2. There is a delay of 54 days in filing the appeal. The Ld. AR explained that the short delay because of compilation of document and error in uploading on ITBA portal may be condoned. The Ld. Addl. CIT (DR) ha no objection.



Accordingly, short delay of 54 days in filing the appeal is condoned and thus appeal is admitted.

3. Having heard both the sides and perusal of record, the appeal is taken heard as covered matter by the coordinate Bench decision in the case of Darshan Lal Kathpal HUF Vs. ITO", in ITA No. 630/Jodh/2024 Assessment Year 2022-23 on the issue of disallowance of credit of TDS claim in the case of Kaccha Arahtia.

Relevant part of the judgment reads as under:

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 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 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 (Supra) 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 shown in 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. In the light of the CBDT Circular 452 of 1986 dated 17.03.1986, we find no error in the finding of the Ld. JCIT (A). However, we deem it appropriate to 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.

4. Following Coordinate Bench (Supra) and 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.
5. In the backdrop of the aforesaid discussion, this appeal of the assessee is allowed in the manner discussed as above.

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

- Sd/-

(LALIT KUMAR)
JUDICIAL MEMBER

- Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 17/06/2025

Copies to :

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

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