

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

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

ITA No. 40&41/Jodh/2025
(Assessment Year 2022-23 and 2023-24)

Mukesh Kumar Aggarwal, M/S Murari Lal Mukesh Kumar, Shop No.4, Nai Dhan Mandi, Raisinghnagar-335051 PAN No. AHIPA5963H		ITO, Ward-1, Sriganganagar.
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Assessee by	Shri Vedant Gupta, C.A.
Revenue by	Shri Karni Dan, Addl. CIT (DR)
Date of Hearing	01.07.2025.
Date of Pronouncement	07.07.2025.

ORDER

Dr. Mitha Lal Meena, A.M.:

These appeals by the assesseees are directed against the separate orders passed by the Commissioner of Income Tax, Appeals, ADDL/JCIT(A)-1, Chennai [hereinafter referred to "the JCIT appeals"] dated 26/11/2024 and 30/12/2024 for the Assessment Year 2022-23 and 2023-24 respectively, challenging therein the sole and common issue regarding confirming disallowance of the claim of TDS deduction on transaction as Kaccha Arahtia. The appeal in ITA No. 40/Jodh/2024 for Assessment Year 2022-23 is taken as a lead case for discussion and adjudication of the issue.



2. The facts are that the Appellant had e-filed her return of income for the Assessment Year 2022-23 on July 29, 2023, declaring total income of Rs. 9,30,080/- and paid total tax of Rs. 67,092/-. The Appellant is working as a commission agent (Kachha Arhatia) besides his own purchase/ sale of agricultural commodities. The turnover (sales) made on behalf of the arhatia is not included in the turnover of the Appellant (Kachha Arhatia) as per circular no. 452 dated March 17, 1986, but only commission on that amount is included in the total income of the Appellant. The AO/CPC has alleged in intimation under section 143(1) of the Income Tax Act, 1961 ('Act') that TDS proportionate to the turnover not reflected in trading/ profit & loss account filed along with the Income Tax Return of the Appellant for the Assessment Year 2022-23 and accordingly, it has been disallowed Rs.98,035/-at the time of processing of the Income Tax Return and partial credit of only Rs. 24,621/- has been allowed, as against total TDS of Rs. 1,86,084/- claimed by the Appellant.

3. Being aggrieved by the order under section 143(1) of the Act, the Appellant filed an appeal before the Ld. Addl./ JCIT (A) - 1, Chennai, who dismissed the appeal of the Appellant by observing as under:

"4.2 In the case under consideration, as illustrated in the preceding paragraph, the trade debtors is not confined to the unrealised commission and therefore, it is established that the Appellant is a trader and not a broker/commission agent as claimed. Further, it is also observed that if the Appellant were truly a commission agent, the buyer of goods would have deducted TDS invoking the provisions of S. 194J and not 194Q, which again strengthens that the goods have been purchased by such persons from the Appellant. Therefore, when it is established beyond doubt that the transactions undertaken by the Appellant during the year is trade and not in the nature of a commission agent/broker, the adjustment made by the CPC invoking the provisions of rule 37BA is found to be in order and hence upheld."



4. The Ld. AR has reiterated the submission made before the 1st appellate authority by stating that the 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 has claimed to be done transaction as kacha arhtiya and trader who has filed his ITR treating 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.
6. The AR contended that while processing the Return of Income u/s 143(1) of the Act, AO/CPC has accepted Returned income, but it has restricted the claim of TDS to Rs. 23,106/- as against Rs. 1,21,141/-. 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 arhtia, 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 assessment year relevant and as such requested to allow credit of the TDS to the assessee being kacha arhtia as a covered matter by Tribunal decisions, particularly Pravin Kumar Nagpal vs. ITO, in ITA No. 82/Jodh/2024 decided on 02.09.2024, assessment year 2022-23.

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 has acted as "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 Kaccha Arhatia if verified with documentation certificate issue by Krushi Upaj Mandi Samiti under the relevant act, it is presumed to be an agent of his constituent and never acts as a principal. In the present case, the certificate issued has been for the purpose of doing business as a trader and not as a commission agent (Kachha Adatiya) of either category. The certificate/Licence issued by Krushi Upaj Mandi Samiti under the relevant act, (APB, Pg.33) is reproduced here under:



8. In our view, the appellant assessee is required to substantiate the privilege of being a kachha arahtia engaged in selling crops on behalf of farmers, with support of documentary evidence so that only gross commission may be considered for the purpose of computing its turnover in the light of CBDT Circular 452 of 1986 dated 17.03.1986 while computing tax liability. It is further 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 ought to have been allowed due opportunity of being heard and furnish updated reconciled TDS statement by getting appropriate corrections carried out in the TDS statement issued in its name by the deductor, by way of filing the details transactions with the deductor so that appropriate updated TDS statement be issued in the name of the clients. Accordingly, in our view, in the given set of facts, the appellants claim does not stand forthwith at this stage, particularly when the certificate is not conclusive as it stands being issued for joint business activities as trade and kachha adatiya without specific categorisation.

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 assessee.

11. In the present case, it is evident from the certificate issued in the appellant's name by the Krishi Upaj Mandi Samiti, Sadulshahar, dated 31/03/2021 that the appellant assessee has been acting as a businessman in the joint status of a trader who is trading in agricultural commodities on regular trading in the Krishi mandi. However, the Ld. AR Counsel argued that it is routine language of the certificate and in fact the assessee has acted as Kachha Adatiya and an appropriate certificate and documentary evidence in support of its claim would be submitted, provided given adequate opportunity by the authorities below.

12. 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 assessee after due verification TDS claim of the assessee with reference to the status of the assessee whether it has acted as kachha



Adatiya during the assessment year relevant. In view of that matter, we consider it ~~deem~~ ^{- uaf -} appropriate, the assessee may be given one more opportunity before the AO which appears to be denied by the Ld. ADDL. CIT, Appeal while rejecting its appeal.

13. Thus, the matter is remanded to the AO to examine the veracity of the reconciled TDS statement and the certificate in the name of assessee, issued by the Krishsi Upaj Mandi, Sardulshahar while allowing the claim of the assessee. It is clarified that clarification on 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 this Bench that the TDS statement can be rectified by getting appropriate corrected TDS statement issued filed by the deductor. Thus, the matter is restored to the file of the AO.

14. The facts and issue raised in ITA Nos. 41/Jodh /2024 are identical to that of ITA No. 40/Jodh /2024. Therefore, our finding and observation given in ITA No. 40/Jodh /2024 shall apply to ITA Nos. 41/Jodh /2024, in *mutatis mutandis*, ordered accordingly.



15. In the backdrop of the aforesaid discussion, the instant three appeal of the assessee are allowed for statistical purposes.

Order pronounced on 07/07/2025 under Rule 34(4) of Income Tax

Appellate Tribunal Ruled.

- Sd/-

(NARINDER KUMAR)
JUDICIAL MEMBER

Dated : 07/07/2025

- Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

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.