

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

ITA No. 252/Agr/2025
Assessment Year: 2014-15

HMA Agro Industries Limited, 2/220, 2 nd Floor, Glory Plaza, Opp. Soor Sadan, M.G. Road, Agra.	Vs.	DCIT, Central Circle, Agra.
PAN : AGRHI0452B		
(Appellant)		(Respondent)

Assessee by	Sh. Deependra Mohan, C.A.
Department by	Sh. Sukesh Kumar Jain, CIT (DR)

Date of hearing	15.07.2025
Date of pronouncement	30.07.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 11.03.2025 passed in Appeal No.NFAC/2013-14/10019439 u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2014-15, wherein learned CIT(Appeals) has dismissed assessee's first appeal, confirming the demand of Rs.5,16,02,434/- raised by the Assessing Officer on account of non-deduction/short deduction of tax at source including interest u/s. 201(1A), vide assessment order dated 30.03.2021 passed u/s. 201(1)/201(1A) of the Act.

2. This appeal has been preferred on the grounds, in addition to other grounds, that the Id. CIT(Appeals) has erred in confirming the assessment order in violation of the principles of natural justice, and that the Assessing Officer was not justified in treating the appellant as an 'assessee in default'.

3. Perused the records and heard learned representative for the assessee and Id. departmental representative for the revenue.

4. The Learned AR has submitted that the impugned order passed by the Learned CIT(Appeals) is not sustainable in law, having been rendered without providing a reasonable opportunity of hearing to the assessee, in violation of the principles of natural justice. It was further contended that the Assessing Officer was also not justified in treating the appellant as an 'assessee in default' under the provisions relating to non-deduction or short deduction of tax at source, without considering assessee's reply to the show cause notice in the correct legal and factual perspective. Learned AR laid much emphasis on a very crucial fact that a detailed show cause notice was issued by the Assessing Officer on 25.03.2021 at 9.39 p.m., requiring the assessee to furnish its response by 26.03.2021. The assessment order, however, was passed shortly thereafter on 30.03.2021. Although the assessee had submitted its online reply on 26.03.2021, no reasonable opportunity was provided to gather and furnish voluminous records and supporting documentation necessary for proper verification of the TDS

liability. It was strongly urged that before arriving at the conclusion that the assessee is an 'assessee in default', it was incumbent upon the Assessing Officer to conduct a thorough verification of relevant facts and supporting records at the assessment stage to ascertain assessee's actual obligation for TDS. The failure to undertake such verification at Assessing Officer's stage has resulted in a miscarriage of justice. In light of the above, the Learned AR prayed that the matter be remitted back to the file of the Assessing Officer for a fresh adjudication, directing the Assessing Officer to afford adequate opportunity to the assessee to submit all relevant evidences and records necessary for verification of its TDS obligations, and thereafter pass a fresh order in accordance with law.

5. Ld. DR, on the other hand, has submitted that sufficient opportunities were afforded to the appellant by Id. CIT(Appeals). He supported the impugned order.

6. On perusal of the impugned order passed by the Learned CIT(Appeals), it is observed that although notices under section 250 of the Income Tax Act, 1961 ("the Act") were issued, the assessee did not file any response or written submissions in the appellate proceedings. Nonetheless, it is evident that the Learned CIT(A) has proceeded to pass the order ex parte without addressing the merits of the case, as mandated u/s. 250(6) of the Act.

7. Further, a perusal of the assessment order reveals that the assessee was not granted adequate opportunity to respond to the show cause notice. The record indicates that a detailed show cause notice was issued during the night of 25.03.2021, requiring the assessee to submit its response by 26.03.2021, owing to the impending limitation for completion of assessment proceedings. In our considered view, the assessee could not have been reasonably expected to gather and furnish complete documentary evidence for verification within such an unreasonably short span of time. Given that the matter pertains to the assessee's obligation to deduct tax at source (TDS) on various payments, as enumerated in the assessment order, a thorough verification of facts supported by relevant documentation is essential. In our considered view, such a thorough verification can be effectively undertaken at the stage of the Assessing Officer. In view of the above facts and in the interest of justice and fair play, we deem it appropriate to set aside the impugned order and remit the matter back to the file of the Assessing Officer. The Assessing Officer is directed to adjudicate the matter afresh after affording the assessee adequate and reasonable opportunity to furnish all necessary documentary evidence and records in support of its contentions. The Assessing Officer shall also ensure due observance of the principles of natural justice during the course of proceedings. The appeal is liable to be allowed accordingly.

8. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 30.07.2025 .

Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Dated: 30.07.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra