

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "SMC" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRIGAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकरअपीलसं./ITA No. 72/JPR/2025
निर्धारणवर्ष/Assessment Year : 2023-24

Shri Dulhe Ram Meena 17, Durga Vihar, Malviya Nagar Jaipur 302 017	बनाम Vs.	The DCIT Circle-1 Jaipur
स्थायीलेखा सं./जीआईआरसं./PAN/GIR No.: AFWPM 4366E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Rohan Sogani, CA
राजस्व की ओरसे / Revenue by: Shri Gautam Singh Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 24/09/2025
उदघोषणा की तारीख / Date of Pronouncement: : 25/09/2025

आदेश / ORDER

By way of this appeal, the assessee has challenged order passed by Learned. Addl/ JCIT(A)-2, Guwahati, on 12-12-2024, relating to the assessment year 2023-24, whereby the appeal filed by said assessee-appellant herein, against intimation order dated 23.02.2024 passed by CPC, Bangaluru, has been partly allowed.

2. As per memorandum of appeal, the assessee-appellant has raised the following grounds of appeal;

"1. In the facts and circumstances of the case and in law, the Id. ADDL/JCIT (A) has erred in confirming the action of the Id. AO (CPC) in not allowing the credit of tax deducted at source. The Id. ADDL/JCIT (A) has failed to appreciate that such an action is contrary to the provisions of Section 143(1) of the Income Tax Act, 1961. The action of the Id. ADDL/JCIT (A) is illegal, arbitrary, and against the facts of the case. Relief may please be granted by quashing the entire order passed by the Id. AO (CPC).

2. In the facts and circumstances of the case and in law, the Id. ADDL/JCIT (A) has erred in confirming the action of the Id. AO (CPC) in not allowing credit for the TDS deducted on account of rental income earned by the assessee of Rs. 1,83,334. The action of the Id. ADDL/JCIT (A) is illegal, arbitrary, and against the facts of the case. Relief may please be granted by allowing the entire TDS credit as claimed by the assessee in the return of income.

3. Vide impugned order, Learned CIT(A) arrived at the conclusion that the appellant is entitled to TDS credit of Rs. 8,08,000/-deducted on the salary, whereas CPC granted TDS credit only to the tune of Rs.5,90,223/-, and accordingly, having regard to the fact that salary income was declared by the appellant, and in view of the provisions of section 199 read with section 37BA of the Act, directed the Assessing Officer to allow credit of Rs. 2,17,777/-.

So far as receipt of rent by the appellant is concerned, Learned CIT(A) observed that the appellant had not furnished conclusive proof that he was owner of land situated at Gram: Ratanpura, Patwar Kshetra, Tehsil:

Bssi, Zira: Jaipur; that the rent received did not pertain to the land on whose income exemption was claimed by the appellant.

Learned CIT(A) went on to observe that even if, for the sake of arguments, the appellant was accepted to be the owner of the said land, the income earned had no component of “agricultural income” as the appellant had not furnished any details that the assessee was using the land for agricultural operation. Consequently, Learned CIT(A) held that income was out of the purview of being termed as “Agricultural income”. With these observations, Learned CIT(A) affirmed the action taken by the Assessing Officer under section 143(1) of the Act.

Consequently, the appeal was partly allowed.

4. Learned AR for the appellant has submitted that the adjustment made by the Assessing Officer and upheld by Learned CIT(A) in the manner indicated above, is not permissible under section 143(1) of the Act, as same would amount to violation of the principles of natural justice, no opportunity of being heard having been granted to the assessee before taking such action against the assessee, and as such the impugned order, vide which the appeal has been partly allowed, deserves to be modified, and the appeal be allowed.

In support of his contention, learned AR has relied on the following portions extracted from certain decisions, in the written submission:

1. Menka Gandhi vs Union of India [1978] AIR 597/1978SCR(2) 621/1978 SCC(1) 248 dated 25th Jan 1978.(SC)
2. Jagannath Prasad Bhargava vs Lala Nathimal and Ors. [AIR 1943 All 17] dated 31-07-1942.
3. M/s. Jaydurga Minerals vs CIT, Cuttack (ITA No. 276/CTK/2015 dated 10th Aug. 2020 – ITAT Cuttack Bench)
4. Vaibhav Global Ltd. vs DCIT (ITA No. 96JPR/2023 – ITAT Jaipur Bench)

5. We have gone through the decisions cited by Learned AR for the appellant. First mentioned three decisions are on the point of principles of natural justice so as to afford an opportunity of being heard.

The decision at serial No.4 pertains to the application of section 143(1) of the Act. Therein, Co-ordinate Bench, ITAT, Jaipur Benches observed that as per said provision no adjustment shall be made to the total income of the assessee unless an intimation is given to the assessee of such adjustment either in writing or in electronic modes.

6. On the other hand, learned DR for the department has rightly contended that the CPC, Bengaluru is empowered under section 143(1) to

take action and make adjustments, like the one in the present case, having regard to the relevant provisions of the Act, and it cannot be said that by such action under section 143(1) of the Act, CPC, Bengaluru committed any illegality.

7. In this regard, reference may be made to the decision in **7 Horses Hospitality LLP v. ITO**, (2023) 155 taxmann.com 550. Therein, this very issue was dealt and while relying on the decisions given by Hon'ble Apex Court in *Checkmate Services (Private) Limited vs. CIT* (2022) 143 taxmann.com 178 and *Pr. CIT v. Strides Arcolab Ltd.*, (2023) 147 taxmann.com the appeal filed by the assessee was disposed of. Relevant portion of said decision and the decisions relied on therein are extracted hereunder:-

“10. In our understanding, the aforementioned binding observations of the Hon'ble Supreme Court cannot be brushed aside simply because the decision was rendered in the context where the assessment was framed u/s 143(3) and not u/s 143(1)(a) of the Act. In our considered opinion, the decision of the Hon'ble Supreme Court is in the context of allowability of deposit of PF/ESI after due date specified in the relevant Act.

11. The Hon'ble Supreme Court has categorically held that the employees' contribution deposited after respective due date cannot be allowed as deduction, and, therefore, it would be incorrect to say that the decision of the Hon'ble Supreme Court is applicable only in the case of an assessment framed u/s 143(3) of the Act. In our considered view, the ratio decidendi is equally applicable for the intimation framed u/s 143(1) of the Act.

12. Now coming to the challenge that the impugned adjustment is beyond the powers of the CPC Bengaluru u/s 143(1) of the Act is also not correct. In light of the aforementioned decision of the Hon'ble Supreme Court [supra], as mentioned elsewhere, it cannot be stated that the impugned adjustment u/s 143(1) of the Act is beyond the powers of the CPC., Bengaluru.

13. The provisions of section 143(1)(a) read as under:-

"143(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of Section 143, such return shall be processed in the following manner, namely;-

(a) The total income or loss shall be computed after making the following adjustments, namely,-

(i) Any arithmetical error in the return;

(ii) An incorrect claim, if such incorrect claim is apparent from any information in the return;

(iii) Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;

(iv) Disallowance of expenditure [or increase in income] indicated in the audit report but not taken into account in computing the total income in the return;

(v) Disallowance of deduction claimed under [section 10AA or under any of the provisions of Chapter VI-A under the heading "C.-Deductions in respect of certain income", if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

(vi) Addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return;"

13.1 A perusal of the afore-stated provisions show that at every stage in sub-section (1) of the Act, the return submitted by the assessee forms the foundation, with respect to which, if any of the inconsistencies referred to in various sub-clauses are found, appropriate adjustments are to be made. It is an open secret that hardly 3 to 5% of the returns are selected for scrutiny assessment, out of which, more than 50% are because of AIR Information under CASS and the Assessing Officer cannot go beyond the reasons for scrutiny selection and such cases are called Limited Scrutiny cases and only the remaining returns are taken up for complete scrutiny u/s 143(3) of the Act.

13.2 Meaning thereby, that exercise of power under sub-section (2) of section 143 of the Act leading to the passing of an order under sub-section (3) thereof, is to be undertaken where it is considered necessary or expedient to ensure that the assessee has not understated income or has not computed excessive loss, or has not under paid the tax in any manner.

14. If any narrow interpretation is given to the decisions of the Hon'ble Supreme Court in the case of Checkmate Services Pvt Ltd [supra], it would not only defeat the very purpose of the enactment of the provisions of section 143(1) of the Act but also defeat the very purpose of the Legislators and the decision of the Hon'ble Supreme Court would be made redundant because there would be discrimination and chaos, in as much as, those returns which are processed by

the CPC would go free even if the employees' contribution is deposited after the due date and in some cases the employer may not even deposit the employees' contribution and those whose returns have been scrutinized and assessed u/s 143(3) of the Act would have to face the disallowance.

15. This can neither be the intention of the Legislators nor the decision of the Hon'ble Supreme Court has to be interpreted in such a way so as to create such discrimination amongst the tax payers. Such interpretation amounts to creation of class (tax payer] within the class [tax payer) meaning thereby that those tax payers who are assessed u/s 143(3) of the Act would have to face disallowance because of the delay in deposit of contribution and those tax payers who have been processed and intimated u/s 143(1) of the Act would go scot- free even if there is delay in deposit of contribution and even if they do not deposit the contribution.

16. We are of the considered view that the ratio decidendi of the Hon'ble Supreme Court is equally applicable to the intimation u/s 143(1) of the Act and, therefore, the decision of the co-ordinate bench relied upon by the assessee is distinguishable. Therefore, respectfully following the binding decision of the Hon'ble Supreme Court [supra], all the three appeals of the assessee are dismissed and that of the revenue is allowed.

17. In the result, all the three appeals of the assessee in ITA No. 249/DEL/2022, 2250/DEL/2022 and 2197/DEL/2022 are dismissed whereas the appeal of the Revenue in ITA No. 2293/DEL/2022 is allowed."

In view of the above deliberations and the decision taken by the Hon'ble Supreme Court in the case of Checkmate Services (P.) Ltd. (supra), Strides Arcolab Ltd. (supra) and also the decision of ITAT Delhi Bench in the case of Savleen Kaur (supra), the Bench sustains the addition confirmed by the Id. CTT(A) and the appeal of the assessee is dismissed so far as to disallowance of payment made after the due date but as regards the arguments of the Id. AR for the payment disallowed which in fact is paid within the time allowed under the respective Act of PF/ESI the Bench directs the Id. AO to look into the payments of the employees contribution made by the assessee timely in respect of ESI/PF and give relief accordingly whose details are submitted (supra) by the Id. AR of the assessee after necessary verification."

8. In view of the above decision, when ratio decidendi of the case of Chechmate Services (Private) Limited has been held to be equally

applicable to the intimation u/s 143(1) of the Act, the decisions cited on behalf of the appellant do not come to the help of the appellant.

Accordingly, we hold that there is no merit in the contention raised on behalf of the appellant that the intimation has been arbitrarily framed and communicated while not following due process of law or by violating the principles of natural justice.

9. As regards part disallowance of TDS credit on rental income, it may be mentioned appellant is feeling aggrieved by the partial disallowance of Rs.1,83,334/-on the rental income from agricultural land.

Learned AR for the appellant has submitted that TDS credit has been disallowed in part on the ground that the appellant could not establish ownership and agricultural use of the land claimed by the appellant.

The contention raised by learned AR is that TDS credit has to be allowed to the person from whose income same has been deducted, notwithstanding any dispute regarding classification of income or title, particularly, when income has been declared and TDS reflected.

10. Admittedly, in his return of income, the assessee declared rental income on agricultural land while claiming that said income is exempted under section 10(1) of the Act.

Learned CIT(A) has upheld the part disallowance of TDS to the tune of Rs. 1,83,334/- due to the reason that the assessee failed to prove ownership of the land situated in Gram Ratanpura, Jaipur. In this regard, Learned CIT(A) considered the contents of the lease deed and copy of jamabandi produced in the appellate proceedings and arrived at the conclusion that the rent received did not pertain to the land, in respect of whose income the assessee was claiming exemption. Another reason recorded by Learned CIT(A) is that appellant failed to furnish details that the lessee was using the land for agricultural operation.

11. At this stage, reference may be made to the provisions of section 199 of the Act and Rule 37BA of the IT Rules. Same read as under:

[Credit for Tax deducted]-

Section 199. (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section

(1) and sub-section (2) and also the assessment year for which such credit may be given.]

(Rule 37BA of IT, Rules)

[Credit for tax deducted at source for the purposes of section 199.]

37BA. (1) Credit for tax deducted at source and paid to the Central Gove in accordance with the provisions of Chapter XVII, shall be gives person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.

(2) (i) Where under any provisions of the Act, the whole or any part of the income which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source as the case may be shall be given to the other person and not to the deductee:

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating deduction of tax referred to in sub-rule (1).]

(ii) The declaration filed by the deductee under clause (1) shall contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.

(3) (i) Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

(ii) Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

"[(3A) Notwithstanding anything contained in sub-rule (1), sub-rule (2) or sub-rule 31 for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.]

(4) Credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of-

(i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority;

(i) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]”

12. Admittedly, this is a case of deduction of TDS on the income of the assessee and said income was reflected in the return of income. In view thereof and having regard to the provisions of section 199 of the Act and Rule 37BA of the IT, Rules, we find merit in the contention raised by learned AR for the appellant that the appellant was entitled to TDS credit

on the said rental income, as claimed by the appellant, once he was able to prove that TDS was deducted on the declared income and deposited with the government.

13. As regards the deficiencies pointed out by Learned CIT(A) in the impugned order that the appellant could not establish that he is the owner of the agricultural land and that the land, from which income is said to have arisen, was being used for agricultural operation, it need not be observed that in this regard, the department is required to proceed in accordance with law, but as regards deduction of TDS on the said income, this appeal deserves to be allowed.

Result

14. In view of the above discussion, observations and findings, this appeal is allowed. Accordingly, Assessing Officer to make recalculations in view of the above findings, and also in accordance with law.

Order pronounced in the open court on 25 /09/2025.

Sd/-

(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member

Sd/-

(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 25/09/2025

*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Dulhe Ram Meena, Jaipur.
2. प्रत्यर्थी / The Respondent- DCIT, Circle-1, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 72/JPR/2025)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar