

IN THE INCOME TAX APPELLATE TRIBUNAL
'DB', AMRITSAR BENCH, AMRITSAR

HYBRID HEARING

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
HON'BLE SHRI UDAYAN DAS GUPTA, JM

1. आयकर अपील सं. / ITA No. 554/ASR/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)

Shri Jatinder Gupta (Prop. Mahajan Molasses Co.) GT Road, Dyalpur, Jalandhar Punjab-144001	बनाम/ Vs.	DCIT Circle-4 Jalandhar-144001
स्थायीलेखासं./PAN. AEMPG-6663-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

2. आयकर अपील सं. / ITA No. 484/ASR/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)

ACIT Circle-4, Jalandhar-144001 Punjab	बनाम/ Vs.	Shri Jatinder Gupta (Prop. Mahajan Molasses Co.) GT Road, Dyalpur, Jalandhar Punjab-144001
स्थायी लेखा सं./PAN. AEMPG-6663-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Ashray Sarna (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Jivandeep Singh Kahlon (CIT) – Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	13-10-2025
घोषणाकीतारीख / Date of Pronouncement	:	27/10/2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid cross-appeals for Assessment Year (AY) 2014-15 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)]

dated 25-06-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s. 144B of the Act on 30-05-2023. The sole issue that arises for our consideration is addition of Rs.316.58 Lacs as made by Ld. AO on account of alleged bogus purchases. The registry has noted delay of 42 days in assessee's appeal, the condonation of which has been sought by Ld. AR on the strength of condonation petition which is accompanied by an affidavit of accountant of assessee entity. Considering the fact that delay is a small delay, we condone the same and proceed for adjudication of the same on merits.

2. The Ld. AR advanced vehement arguments assailing impugned additions and referred to financial statements and other documents of the assessee. Reference has been made to various case laws to support the case of the assessee. The Ld. CIT-DR also advanced arguments and supported the assessment order of Ld. AO. Having heard rival submissions and upon perusal of case records as well as case laws, our adjudication would be as under.

Assessment Proceedings

3.1 The assessee being resident individual is stated to be engaged in trading of molasses in its proprietorship concern M/s Mahajan Molasses Co. The assessee filed return of income at Rs.23.46 Lacs which was subjected to scrutiny u/s 143(3) on 16-12-2016. However, the case was reopened pursuant to receipt of information from ITO-4(3), Abohar assessing another entity i.e., M/s Modern Sales Corporation that the assessee made bogus purchase of *Naku / Rice*

Bran from that entity for Rs.316.58 Lacs. Accordingly, notice u/s 148 was issued on 27-07-2022 which was followed by notices u/s 142(1) requiring the assessee to substantiate the purchases made from M/s Modern Sales Corporation.

3.2 To bolster the allegation, Ld. AO referred to the statement of Shri Avinash Chander Prop. of M/s Modern Sales Corporation which was recorded u/s 131 on 26-12-2016 wherein he admitted to have provided entries of bogus sales and purchases to various beneficiaries including the assessee. On the basis of the same, it was alleged by Ld. AO that the purchases made by the assessee were nothing but bogus purchases.

3.3 The assessee furnished financial statements and copies of bills etc. However, going by the statement of Shri Avinash Chander, the amount of Rs.316.58 Lacs was added to the income of the assessee and the assessment was framed.

Appellate Proceedings

4.1 The assessee filed detailed written submission to assail the stand of Ld. AO. The assessee pointed out that assessee's books of account were duly audited. The details of creditors, sales, debtors and quantitative stock details were duly verified in scrutiny proceedings u/s 143(3) and full disclosure was made by the assessee. The assessee furnished purchase bills with goods carriage receipt evidencing delivery of goods. The bills duly reflect quantity purchased, rate, details of goods carriage, truck number, date, transporter's name and other details. The assessee also furnished VAT returns wherein these

purchases were duly disclosed in VAT returns and accepted as such. The quantitative details of stock as well as bank statements evidencing payment through banking channels were also furnished. The assessee also furnished confirmed ledger of M/s Modern Sales Corporation. It was explained that most of the goods were directly dispatched to the customers who confirmed the transactions.

4.2 It was further stated that the assessee was having regular dealing with M/s Modern Sales Corporation whereas entire addition was made merely on the basis of statement of Mr. Avinash Chander. However, during search / survey on that party, no supporting documents were found substantiating allegation of bogus purchases by the assessee. Further, no opportunity of cross examination was provided to the assessee despite the request of the assessee and thus, violating the principles of natural justice. Therefore, the entire assessment proceedings were without jurisdiction and bad-in-law. The statement of third-party could not be relied upon solely unless there was corroborating evidence to support the same. Pertinently, the assessee made aggregate purchases of Rs.63.28 Crores during this year which was finally sold and VAT was paid on such sales. Without actual purchase of material, no sale could be possible. The quantitative details were duly reflected in the audit report and no discrepancy was pointed out in the same. The assessee also drew attention to the fact that an assessment was framed by VAT authorities for this year accepting the sale and purchases as declared by the assessee. Accordingly, the assessee made out a case that the impugned

purchases were genuine and no disallowance could be made in the hands of the assessee in terms of various judicial decisions.

4.3 The assessee also tabulated that the Gross Profit (GP) rate in this year was 6.71% which was better than GP rate of 5.31% in immediately preceding year. Similarly, the Net Profit (NP) rate of 0.27% as reflected in this year was much better than NP rate of 0.20% in immediately preceding year.

4.4 In the backdrop of factual matrix as put forth by the assessee, Ld. CIT(A) partially concurred with assessee's submissions and observed that AO did not disturb the sales of the assessee. The assessee maintained all records related to sales and the books were audited as required by law. The VAT returns were accepted by the authorities. The payments to the suppliers were through banking channels. The Ld. AO did not find any fault with quantitative details or stock register of the assessee. The purchases were part of the sale. It was logical that without purchases, there could not be any sales. However, going by general market practices, actual purchases are made from difference parties which gives rise to a situation that though purchase bills may not be genuine but actual purchases to make the sales are not necessarily bogus. In order to prevent leakages of revenue, it would be fair to add 12.5% of impugned purchases to account for profit element. In the result, the addition to the extent of Rs.39.57 Lacs was confirmed and balance addition of Rs.277.01 Lacs was directed to be deleted. Aggrieved, the revenue as well as the assessee is in further appeal before us.

Our findings and Adjudication

5. From the factual matrix, it emerges that the assessee is engaged in trading of molasses. In this year, the assessee has reflected sales of Rs.67.68 Crores as against purchase of Rs.63.28 Crores. The GP rates as well as NP rates, in this year, are much better in comparison to corresponding rates in immediately preceding year. For this volume of business, the assessee is required to maintain proper books of accounts. The assessee has maintained proper books of account as well as quantitative details of trading stock. The books have duly been audited under statute. The assessee was subjected to scrutiny u/s 143(3) on 16-12-2016 wherein the trading results were accepted and no discrepancy was found out in the sales, purchase or stock details. The assessee's trading goods are subjected to VAT and all sales and purchase are duly been reflected in the VAT returns. In fact, an assessment has been framed against the assessee for this year by VAT authorities for this year accepting the sale and purchases of the assessee. The assessee has furnished confirmed ledger account of M/s Modern Sales Corporation to Ld. AO. Apparently, the assessee has regular dealing with this party. All the payments by the assessee to the said supplier are through banking channels only. The purchases made from this party are duly supported by purchase bills, transport receipts bearing adequate details. Most of the goods have been supplied directly to assessee's customers who have confirmed the stated transactions. On these facts, it could be well said that the onus to establish that the impugned purchases were genuine was duly

discharged by the assessee and the onus was on Ld. AO to disprove the same. However, no concrete material has been brought on record by Ld. AO to disprove the documentary evidences as furnished by the assessee.

6. It could be gathered that the sole basis to make the impugned addition is the statement of Shri Avinash Chander, prop. of M/s Modern Sales Corporation. However, during search / survey on that party, no incriminating material has been found to substantiate the fact that the purchases made by the assessee from that party were bogus in nature. The Ld. AO has heavily relied on third-party statements. However, no independent enquiry, whatsoever, has been carried out by Ld. AO to substantiate the allegation of bogus purchases. Pertinently, the assessee demanded cross-examination of that party during assessment proceedings but the same was not provided which is in gross violation of principle of natural justice. The Hon'ble Apex Court in the case of **Andaman Timber Industries vs. CCE (281 CTR 0241)** held that not allowing assessee to cross-examine witnesses by adjudicating authority though statements of those witnesses were made as basis of impugned order, amount to serious flaw which make impugned order nullity as it amounted to violation of principles of natural justice.

7. In the present case, we find that such an opportunity of cross-examination has never been provided by Ld. AO to the assessee despite assessee's request which would make the impugned addition nullity. If the statement of Shri Avinash Chander is ignored, nothing

would be left with Ld. AO to support its allegation of alleged bogus purchases. As against this, the assessee has filed substantial documents in support of its claim that the impugned purchases were genuine. No evidence of cash exchange has been found and no evidence, in that regard, has been unearthed.

8. Finally, considering the entirety of facts and circumstances of the case, the assessee's claim is to be accepted. The impugned addition of Rs.316.58 Lacs but partially sustained by Ld. CIT(A) stand deleted in *toto*.

9. The revenue's appeal ITA No.484/Asr/2024 stand dismissed. The assessee's appeal ITA No.554/Asr/24 stand allowed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 27/10/2025

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR