

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)

BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT

ITA No. 5726/Del/2025
Asstt. Year : 2017-18

VARDHMAN INTERNATIONAL,
11170B, BISHAN SARUP COLONY,
PANIPAT-132103,
HARYANA, PANIPAT
(PAN: AAEFV0015G)
(Appellant)

vs.

NFAC, NEW DELHI
(Respondent)

Appellant by : Shri Nam Chand Jain, AR
Respondent by : Shri Manoj Kumar, Sr. DR

Date of Hearing	28.10.2025
Date of Pronouncement	28.10.2025

ORDER

This appeal by the assessee is emanating from the order of the Ld. NFAC, Delhi in Appeal No. ITBA/NFAC/S/250/2024-25/1072381357(1), order dated 21.01.2025 on the following ground:-

“Assessing Officer has levied a tax of R\$.21,95,720/- for AY 2017-18 in respect of our firm. Against decision of AO, an appeal was filed with CIT (Appeals) who has also upheld decision of AO for reason being that our CA could not represent the case not even on a single occasion and he did not file any reply since he was going continuously ill from a serious disease mental depression and hence he kept on avoiding filing of any reply during whole period from the day when he filed appeal with CIT (Appeals) till decision pronounced by CIT (Appeals). So decision of CIT (Appeals) is ex-

party as you will kindly see from order of CIT (Appeals). I Nem Chand Jain being partner of Vardhman International Panipat having pan No. AAEFV0015G, am to submit that I became partner of said firm in FY 2006-07 by executing a partnership deed with erstwhile proprietor Mr Sanjay Jain of Vardhman International Panipat (proprietorship firm formed in 2002) and we got new pan no of partnership firm immediately and later on in FY 2009-10, said partnership was dissolved and only Sanjay Jain was left as proprietor and he continued to work under proprietorship firm in the same name Vardhman International Panipat at the same place. Mr Sanjay Jain is my real brother. Our partnership firm and also proprietorship firm used to do 100% export business of textile goods. Problem took place when proprietorship firm's CHA (custom house clearing agent) quoted Pan number of partnership firm in shipments made between entire AY 2017-18. All export sales stand accounted for in proprietorship firm having pan No. ABIPJ4872A, being pan no of Sanjay Jain and said proprietorship firm is duly assessed in Income Tax. In detailed reply, I will submit assessment orders of relevant AY of proprietorship firm Vardhman International and also forward to your good self a statement incorporating all details like invoice no, date of invoice, amount of invoice in USD. Our CHA remained the same since 2002 till it got converted into partnership and further dissolved & became proprietorship firm. So CHA at Mumbai while making all export shipments kept on mentioning pan no of partnership firm instead of proprietorship firm which was a big blunder on his part and hence IT department through software system got information of export sales of Vardhman International, a partnership firm. In fact since FY 2009-10, no partnership firm in name of Vardhman International Panipat having Pan No. AAEFV0015G exists and hence not doing any business. So question of export out of India does not arise.”

2. At the outset, it is noted that there is a delay of 169 days in filing the appeal before the Tribunal. After hearing the rival contentions and perusing the records, I am of the considered view that reasonable cause has been attributed to the assessee for filing the belated appeal before the Tribunal, hence, I condone the same.

3. Brief facts of the case are that the assessee is a firm and did not file its return of income for the AY 2017-18. On the basis of information available, it was seen that the appellant had goods exported amounting to Rs. 3,67,05,245/-. To verify the same, the case was reopened and notice u/s. 148 dated 28.07.2022 was issued after obtaining prior approval. During the assessment proceedings, the AO added Rs. 29,36,420/- being 8% of income from sale of goods by passing an exparte order dated 10.05.2023 u/s 147 r.w.s 144 read with section 144B of the Act due to non-prosecution on the part of the assessee. Being aggrieved, assessee appealed before the Id. CIT(A) wherein, Ld. CIT(A) observed that since assessee remained silent on the notices issued by the Ld. CIT(A), hence, he upheld the action of the AO.

4. After hearing the rival contentions and going through the facts and circumstances of the case, I note that both the lower authorities have passed their respective exparte orders, after giving sufficient opportunities to the assessee, to canvass its case. I further note that in response to show notice issued, assessee furnished reply stating that the operations of the firm came to an end from the FY 2009-10 and the turnover is reflected in the proprietary concern of one of the partner Sh. Sanjay Jain and requested to grant time to furnish the information. Accordingly, time was granted upto 5.5.2023 vide notice u/s. 142(1) dated 25.4.2023. However, the assessee has not furnished any information in support of its contention. In view of the above, the assessment is completed based on the information available on record. Accordingly, AO noted that as per the information available on record, assessee has exported goods amounting to Rs. 3,67,05,245/- during the year. The assessee has not filed return of income any details with regard to export of goods. Hence, 8% of income from the sale of goods Rs. 3,67,05,245/-

amounting to Rs. 29,36,420/- is treated as income from business or professional and brought to tax. It was the contention of the Ld. AR that the assessee namely Shri Nem Chand Jain being partner of Vardhman International Panipat having PAN No. AAEFV0015G, became partner of said firm in FY 2006-07 by executing a partnership deed with erstwhile proprietor Mr Sanjay Jain of Vardhman International Panipat (proprietorship firm formed in 2002) and got new PAN No. of partnership firm immediately and later on in FY 2009-10 and the said partnership was dissolved and only Sanjay Jain was left as proprietor and he continued to work under proprietorship firm in the same name Vardhman International Panipat at the same place. Mr Sanjay Jain is the real brother of the assessee. Their partnership firm and also proprietorship firm used to do 100% export business of textile goods. It was further submitted that problem took place when proprietorship firm's CHA (custom house clearing agent) quoted PAN number of partnership firm in shipments made between entire AY 2017-18. All export sales stand accounted for in proprietorship firm having PAN No. ABIPJ4872A, being PAN no of Sanjay Jain and said proprietorship firm is duly assessed in Income Tax. It was further submitted that assessment orders of relevant AY of proprietorship firm Vardhman International and also filed showing a statement incorporating all details like invoice no, date of invoice, amount of invoice in USD. Our CHA remained the same since 2002 till it got converted into partnership and further dissolved & became proprietorship firm. So CHA at Mumbai while making all export shipments kept on mentioning PAN no of partnership firm instead of proprietorship firm which was a big blunder on his part and hence IT department through software system got information of export sales of Vardhman International, a partnership firm. In fact since FY 2009-10, no partnership firm in name of Vardhman International Panipat having PAN No.

AAEFV0015G exists and hence not doing any business. So question of export out of India does not arise. In view of the aforesaid factual matrix and in the interest of justice, in my considered view the aforesaid contentions of the Ld. AR for the assessee should be examined at the level of the AO and thereafter the issue in dispute be decided in accordance with law, afresh, after giving adequate opportunity of being heard to the assessee. Assessee is also directed to file all the requisite details/ evidences and fully cooperate with AO during the proceedings, to canvass its case properly. I hold and direct accordingly.

5. In the result, the Assessee's appeal is allowed for statistical purposes
Order pronounced in the Open Court on 28.10.2025.

Sd/-

(MAHAVIR SINGH)
VICE PRESIDENT

Date :12-11-2025

SRBhatnagar

Copy forwarded to: -

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

By Order,

Assistant Registrar, ITAT, Delhi Bench