

आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
CHANDIGARH BENCH, 'B', CHANDIGARH

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER &  
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

**ITA Nos. 356 to 359/CHD/2023 & 569/CHD/2023**  
Assessment Years : 2009-10, 2013-14, 2014-15, 2015-16 &  
2012-13

Ropar District Cooperative Union Limited, NH-21, Milk Plant, GT Road, Mohali, Punjab 160062	बनाम Vs.	The DCIT, Circle 6(1), Mohali.
स्थायी लेखा सं./ PAN NO: AAAAT5977G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

( PHYSICAL HEARING )

निर्धारित की ओर से/Assessee by : Sh. M.R. Sharma, Advocate  
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 08.01.2026  
उदघोषणा की तारीख/Date of Pronouncement : 15.01.2026

**आदेश/Order**

**Per Krinwant Sahay, AM :**

Captioned appeals for different assessment years have been preferred by the assessee against the separate orders, dated 29.03.2023 (ITA Nos. 356, 357 and 359/Chd/2023), 26.4.2023 (ITA 358/Chd/2023) dt.

20/7/2023 (ITA 569/Chd/2023) passed by the Ld. Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi.

2. Since the identical issues have been raised through grounds of appeal expect the amount of addition involved, therefore, they were heard together and are being disposed off through this common and consolidated order.

3. The Assesse's appeal is **in ITA No. 356/Chd/2023 for A.Y. 2009-10** being taken as a lead case wherein, following grounds have been raised: -

1. *That the order of the Assessing Officer disallowing Rs. 1,29,14,987/- being the amount of commission paid on purchase of milk from the cooperative societies in the milkshed area of other cooperative societies in spite of the deduction of TDS and confirmation affidavits furnished by the society receiving commission without affording proper opportunity is bad in law and needs to be deleted.*
2. *That the order of the AO disallowing Rs. 9952606/- being the amount of commission paid on the sale of milk and products to other cooperative society in spite of the fact that deduction of TDS and confirmation affidavits furnished by the society receiving commission*

*without affording proper opportunity is bad in law and needs to be deleted.*

4. From the aforesaid grounds of appeal, it is gathered that the only issue is regarding confirmation of addition by the CIT(A) made by the Assessing Officer of Rs. 22,28,67,595 being the commission paid for purchase of milk from the cooperative societies from milkshed area of the other cooperative societies in spite of TDS and confirmation affidavits furnished by the society receiving commission.

5. Brief facts of the case are that the Assessee is a cooperative society registered with Registrar of Cooperative Societies (Punjab). The Assessee is engaged in the purchase of raw milk and manufacturing of milk products and goods manufacture out of it. During the year under consideration the Assessee had paid commission to other milk unions as under:-

*“19. During the year under consideration, the assessee had paid commission to other milk unions as under:*

<b>Name of party to which commission paid</b>	<b>Gross amount</b>
<i>The Punjab State Co-operative Milk Federation Chandigarh (M.P. Chandigarh)</i>	99,52,608
<i>The Punjab District Cooperative Milk Producers Ltd.(MU, Patiala)</i>	1,24,13,900/-
<i>The Hoshiarpur District Cooperative Milk Producers Ltd.(MU, Hoshiarpur)</i>	5,01,087/-
<i>Total</i>	2,28,67,595/-

20. During the course of assessment proceedings, the Assessing Officer required the assessee to explain the nature of services, etc. rendered by the aforesaid parties, for which commission was paid. In this regard, the assessee contended that the commission was paid for undertaking the business and in the interest of the assessee. The assessee further explained that the commission to Milk Union, Patiala and Milk Union, Hoshiarpur was paid for exploiting the areas under their Milk Shed areas. These two unions provided the necessary infrastructures including the visit of doctors, supply of medicines and other connected facilities to the milk producers residing in the respective Milk Shed areas. Regarding milk plant at Chandigarh, it was contended by the assessee that various business transactions took place with this party. The Assessing Officer issued letter under section 133(6) of the Act to the above parties to the effect that if any service has been rendered by them to the assessee. The Assessing Officer noticed that Chandigarh party did not respond to the letter sent by him. However, the Assessing Officer came to the conclusion that the assessee could not substantiate its claim that the commission expenses were

*bonafide and genuine and he accordingly, disallowed the entire expenditure paid on this account.*

6. Aggrieved with the order of the Assessing Officer, the Assessee filed an appeal before the ld. CIT(A) who confirmed the addition made by the Assessing Officer on this issue.

7. Aggrieved with the order of the Ld. CIT(A), the Assessee filed an appeal before the Tribunal which was disposed off vide Tribunal's common order dated 23.5.2016 passed in ITA Nos. 902/Chd/2013 and 1127/Chd/2014 in the case. The ITAT in that order remanded this issue to the Assessing Officer giving the direction as under: -

*"Considering the entries facts and circumstances of the present case, we think it appropriate to set aside the findings of the learned CIT(Appeals) on this issue and remand matter to the Assessing Officer with a direction to decide the issue afresh in accordance with law, after affording due and reasonable opportunity of being heard to the assessee. It is also made clear that the assessee is free to produce relevant evidence*

*in support of its claim. We may also add here that the plea taken by the assessee that TDS has been deducted on the disputed payments, is of no consequence, since deduction of tax at source of any amount does not necessarily enable the assessee to claim that amount as expenditure. As we have already observed hereinabove that under section 37 (1) of the Act onus is on the assessee, claiming such deduction of TDS is not sufficient to prove that the amount in question was incurred wholly and exclusively for the business purposes. We direct the Assessing Officer to pass a speaking order in accordance with law.”*

8. In the second round also, the AO / DCIT made an addition of Rs. 2,28,67,595 as per the earlier order on the issue of commission paid by observing as under:

*“3. The reply of the assessee has been considered and all the documents submitted in support of its contention were thoroughly checked and examined and it was found that the contention of the assessee is not acceptable due to the fact that the assessee has failed to provide any documentary evidence with regard to revocation of Letter No PSP/ACCTTS/A1/2522 dated 30.01.2016 addressed to the General Manager Union, Ropar issued by Additional MD of Milkfed vide which it was decided that no commission was to be charged from the F.Y. 2004-05. Further,*

*the assessee had previously submitted that Milk Union Patiala (M.U Patiala) and Hoshiarpur (M.U Hoshiarpur) provided all necessary infrastructures including the visit of the doctors, supply of medicines and other connected facilities to the milk producers residing in that milk shed area, however the same was not substantiated with any documentary evidence.*

*4. The word commission refers to a factor or other agent for services to be rendered in making a sale or otherwise; factor or agent who managing the affairs of the others, in recompense of his services. It is an allowance, recompense or reward made to agents, brokers and other for effecting sale or carrying out business transaction. It is generally calculated at a certain percentage on the amount of transaction and on the profits to the principals. A commission is a fee paid to a third party in exchange for assistance in completing in financial transaction. A commission may either be a percentage of the value of transaction or a flat fee.*

*5. In view of the above definition of the word commission the assessee has failed to produce any hard evidence justifying the expense for his business. Thus, in view of facts and circumstances and above findings, it is held that the assessee is not eligible to claim deduction of Rs 2,28,67,595/- as commission expenditure and the same is added back to the income of the assessee. Penalty u/s 271(1)(c) are also initiated in this regard for furnishing*

*inaccurate particulars of income and for concealing of particulars.”*

9. Aggrieved with the order of Assessing Officer, the Assessee preferred second round of appeal before the Ld. CIT(A). The Ld. CIT(A) in his order dated 29.3.2023 has sustained / confirmed the addition made by the Assessing Officer giving his findings as under:-

*“4.4 The crux of the whole issue is that the appellant is aware of the fact that the General Manager Milk Union, Ropar, issued a communication through the Additional MD of Milk Fed, regarding rates of charges to be levied for use of Verka trade mark, and it was decided that trade mark charges @ 0.5% on the turnover will be charged instead of high rate of commission, we.f. FY 2004-05. The decision was approved by BOD of Milk Fed. However, in contravention to the terms of above letter the assessee has made huge payment of commission to Milk Fed. This was also in addition to the payment made by the assessee on account of trade mark expenses. Therefore, it is clear that the appellant had intentionally made excess payment to milkfed and other unions which it termed as "commission". Hence, the nomenclature given to an expenditure as commission claiming the expenditure as commission; and thereby to make it more a legally wedded claim by giving*

*a mixed name with nomenclature as "commission payable as per the provisions of section 37 of the Act in bringing the said expenditure into the application of TDS provisions; and then, deducting the tax from the said payment; and by making it abundantly a concreted claim by filing form 16A for the said payment- followed by an "affidavit" to withstand the true test of allowability of the said expenditure. All these steps of exercise needs to be seen in the true value of a conscious decision taken in making an "excessive" payment for no valid reason "in contravention" of the decision taken by the Board of Directors and application of the provisions of section 37 of the income tax Act. Thus, the liability that arose in making, payment is definitely to be understood as not related for the purpose of business and during the course of business to be considered as an outright "expenditure" and thereby coming to connotation of calling the same as "expenditure" under section 37 of the Act. The fact of the matter is that "some extra payment" was made, consciously, which is definitely in excess of a quantified amount as per the decision taken by the Board of Directors. That extra payment over and above the quantified amount, in terms of business considerations, can best be quoted as just a payment and that such "payment" voluntarily being made and consciously undertaken to pay is nothing but an act of making "gift" or a free payment without taking much burden on the needs of a business entity. With the above*

*background of the situation, it's worth holding to declare it as a payment made for extra business considerations which is unknown to both the payer, having made such payment not for any business, and on the part of payee, having received that much of payment. This is the crux of affair in this case and therefore, the appellant assessee failed to produce adequate evidence, and basis for making such quantum of payment. The AO has stated in the order very clearly that In view of the above discussion and considering the facts that the assessee has failed to substantiate the claim of commission expenses, along with supporting documentary evidence, it is concluded that the assessee has wrongly claimed expenses of Rs. 2,28,67,595/- under the head 'Commission Expenses. Had this expenditure is really a commission payment, as alleged by the appellant, it would have brought on record the requisite evidences as called for by the AO. This was not done inspite of it being requested to produce evidences time and again by the AO: Even during the appeal proceedings before CIT appeals, ITAT stage and then even remand proceedings, the appellant did not avail of opportunity to produce evidences. With the backdrop of the situation, have no hesitation to hold that the said expenditure so incurred is not for the purpose of business activities and incurred during the course of business activities. It's just a payment voluntarily made with no consideration of getting any services and*

*outside the parameters of a business boundaries.*

*4.5 The assessee was claiming expenditure under section 37 of the Act, the burden was on the assessee to establish that expenditure was laid out or expended wholly and exclusively for the purpose of business or profession and the aforesaid burden could not have been shifted on the Assessing Officer to allow the expenses without production of supporting evidence, when a notice under section 142(1) was issued to furnish clarification and evidence concerning the return of income filed by the appellant. As laid down by the Supreme Court in the case of Swadeshi Cotton Mills Co. Ltd. v. CIT [1967] 63 ITR 57, that the question whether an amount claimed as expenditure was laid out or expended wholly or exclusively for the purpose of the assessee's business, profession or vocation has to be decided on the facts and in the light of the circumstances of each case. The mere existence of an agreement between the assessee and the commission agent, assuming. there was such agreement and payment, does not bind the ITO to hold that the payment was made exclusively and wholly for the purpose of the assessee's business. Although, there might be such an agreement in existence and the payment might have been made, it is still open to the ITO to consider the relevant facts and determine for himself, whether the commission paid has been paid and is deductible in computing the total income of*

*the assessee. On the basis of the ratio of the Supreme Court Judgment in case of CIT v. Durga Prasad More [1971] 82 ITR 540, it has to be held that the documents to which a reference has been made by the Id. Counsel for the assessee are self-serving devices and brought in aid to support an action which is neither justified on facts nor in law. It is the duty of the AO to go behind the smoke screen and find out the truth of the matter and it is a well-settled law for which authority, if any, may be found in the case of Swadeshi Cotton Mills Co. Ltd. v. CIT [1967] 63 ITR 57 (SC). Mere existence of an agreement would not make either the payment genuine or eligible for deduction as having been made for commercial expediency. Reliance for this was placed on the judgment of the Supreme Court in the case of Lachminarayan Madan Lal v. CIT [1972] 86 ITR 489. In fact it has to be stated that all these documents viz., schedules of the balance sheet, are self serving devices in furtherance of the cause of the assessee and it cannot be relied upon in view of the judgment of the Supreme Court in the case of Durga Prasad More (supra).*

5. *In view of the above, keeping in view the facts of the case, appellant's failure to submit requisite evidenced as called for by AO, and it's failure to bring them in record even during appeal proceedings, and also the volume of expenditure in relation to the business carried on by the appellant, the AO is justified in making disallowance of the expenditure and accordingly reject the appellant's ground*

*of appeal, in this regard. In the result, the appeal is dismissed.”*

10. Aggrieved with the second round of the order passed by the Ld. CIT(A), the Assessee has filed this appeal before the Tribunal.

11. During the proceedings before us, the ld. DR argued that the order passed by the Ld. CIT(A) confirming the addition made by the Assessing Officer is justified in the sense that the Assessee has failed to produce any document or proof that the amount paid to the different cooperative societies for procurement of milk from different milk-shed area was in the nature of commission. The ld. DR also pointed out that the letter produced by the Assessee from Milk union, Hoshiarpur dated 18.11.2011, wherein, it is clearly mentioned in Clause-2 that *‘No any service rendered by us, only our operational area for collecting milk is operated by Milk Union, Rorer’*. The ld. DR further argued that even from this letter of Milk Union,

Hoshiarpur it is clear that the milk cooperative societies in other milk shed areas have not provided any service to the Assessee. Therefore, the claim of the Assessee for payment of commission is not to be accepted.

12. Per contra, the ld. Counsel for the Assessee argued that in the same letter Milk Union, Hoshiarpur it has been clearly mentioned in Clause -3, '*we have not rendered any service but royalty for operation in our jurisdiction is received by us from milk union, Ropar*'. In Clause 5, it has been clearly mentioned that '*yes, we have shown the royalty receipts in this account in P&L account*'. The ld. Counsel for the Assessee also produced a letter written by the General Manager to Addl. Commissioner of Income Tax, Range Mohali in the case of furnishing of information in respect of M/s Ropar Distt. Co-op Milk Producers Union, Mohali, which is reproduced as under:-

No.PMU/ACCTTS/ 8166

Dated: 18-11-11

Addl. Commissioner of Income Tax,  
Range Mohali.

Sub: **Furnishing of Information U/S 133(6) of the IT Act in the case of M/s Ropar Distt. Co-op. Milk Producers' Union, Milk Plant, Phase-VI, Mohali for the Assessment Year 2009-10.**

R / Sir,

Kindly refer to your good office letter # Addl. CIT/R-VI/MHL/2011-12/11507 dated 11/14.11.2011 on the subject cited above.

In this connection, it is humbly submitted that our is a Co-operative Milk Society set up by the Punjab Government under Co-operative Sector to uplift the living standards of poor farmers by providing them a remunerative price of their produce i.e. Raw Milk and its commitments towards Operation Flood Programme (Rehabilitation Plan launched by World Bank for Health Services in Punjab) with the following objectives:

- Bringing prosperity among the Milk Producers in the District by providing remunerative milk price around the year directly to avoid exploitation at the hands of middlemen.
- To provide excellent Technical Input Services at the door step of the milk Producers like Breed Improvement Programme of Milch Animals, Supply of Balanced Cattle Feed and improved Quality of Fodder Seed etc.
- To strengthen the dividend level of Milk Producers' by selling their produce after processing under stringent quality adhering parameters to ensure that the right product reaches to the right corner at right price.

But due to carving of Fatehgarh Sahib District, which comprises Bassi Pathana and Amloh Tehsil of Patiala District our Milkshed area which was earlier falls with Milk Union, Patiala was transferred to Milk Union, Mohali as per Govt decision when it (area under question) has attained full development in terms of Milk Producers' Cooperative Society structure in calculated.

(Contd...P/2...)

-2-

The said area was groomed from scratch to its full shape with the manpower, financial resources and subsidy from the financial account of Milk Union, Patiala. It was due to the utmost hard-work footed in by Milk Union, Patiala, which has spanned into years that it has started giving dividend. Had this area not been transferred to Milk Union, Mohali, the dividend would have been reaped by Milk Union, Patiala, who has groomed this area.

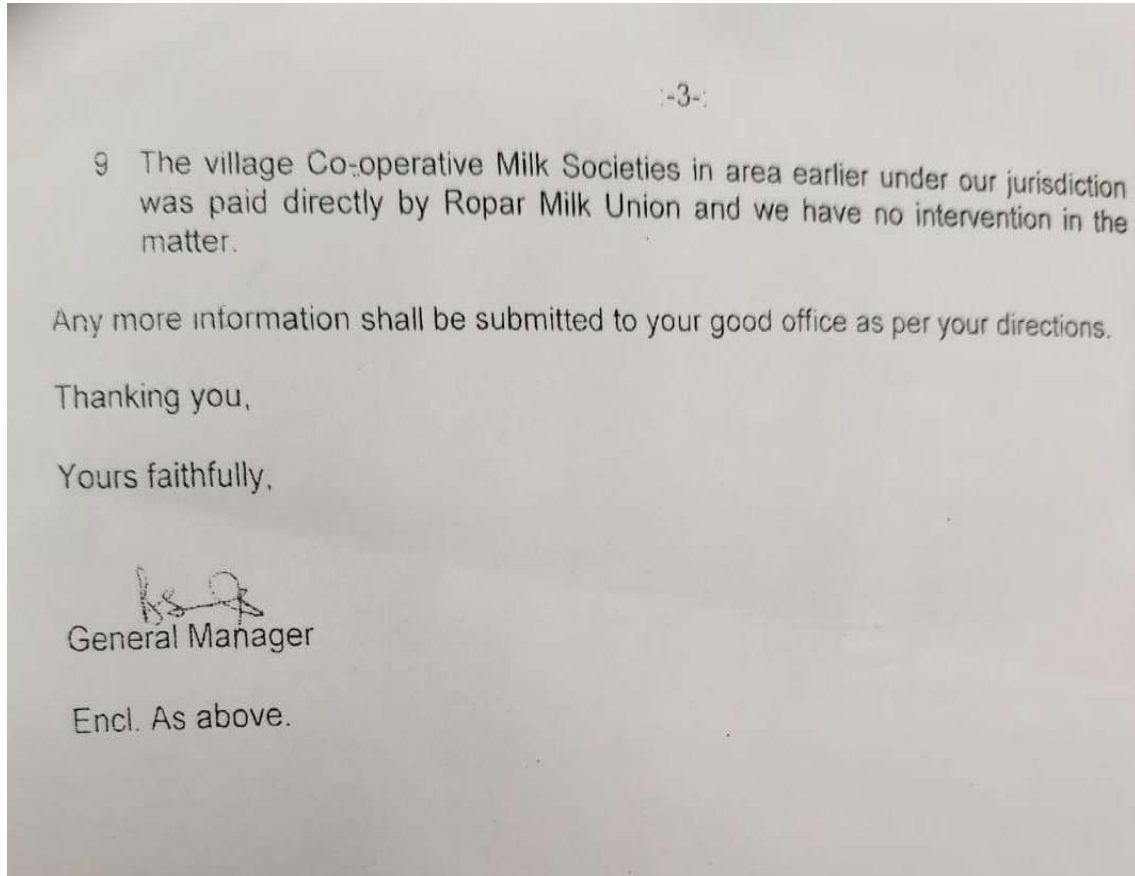
In order to give Milk Union, Patiala it's due (from the transferred area of Milk Union, Patiala to Milk Union, Mohali) the royalty is paid to Milk Union, Patiala on per liter of milk collected from this area.

It is a set procedure followed not only at our level but is followed by Govt. of India also in case of extension of royalty to the basin / origin from where the Natural Resources like Gas, Coal and Petroleum is extracted in case of Coal due to royalty is extend to Govt. of Bihar by Govt. of India as a part of the area falling under the jurisdiction of Bihar Govt. and by virtue of having climatically or logically having groomed the area for the generation of natural resources.

In view of above submission our receipts of commission from Mohali Plant for milk procured by them are quite justified. The detailed reply is as under:

1. As stated earlier, the area is determined by the Registrar, Co-operative societies Punjab as he is the Competent Authority in the matter.
2. We have established these societies which were our members and associated with us since long. We had provided them the facilities as stated above. Thus, our claim is quite justified.
- 3&4. The expenses such as salaries and other administrative expenses were booked in our a/c but no separate detail has kept to associated these expenses. We receive this amount due to above administrative decision and we receive it since long.
5. We do not act an Agent on behalf of other Plants for procuring Milk. Hence no question of getting commission arisen in our case.
6. The Milk has collected directly from Farmers / Milk Producers through Village Co-operative Societies falling in our Milkshed area. But we neither collect milk nor supply it to Mohali Plant.
7. The list of villages given in point No: 1- copy enclosed.
8. Yes, we have shown income of Rs.1,24,13,900.00 as taxable income in our return of Income Tax for the AY 2009-10.

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The Minutes of Meeting of Committee of Accounts Heads of the District Milk Unions held on 9.3.2007 for the year 2006-07 and Dt. 3.08.2007 for year 2007-08 are also reproduced as under: -

Sh. R. K. Wadhawan

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Minutes of the meeting of committee of Accounts Heads of the District Milk Unions held on 9-3-2007 in Milkfed, H.O. to deliberate and recommend Inter-Union Milk Transfer rates for the year 2006-07.

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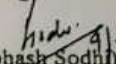
Present :-

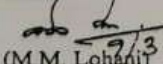
1. Sh. Subhash Sodhi, Mgr. (F&A), Milkfed, H.O.
2. Sh. M.M. Lohani, Manager (Accounts), Milk Union, Mohali.
3. Sh. R.P. Taneja, Manager Accounts, Milk Union, Jalandhar
4. Sh. Ashok Gupta, Manager Accounts, Milk Union, Ludhiana
5. Sh. M.L. Saini, Manager Accounts, Milk Union, Jalandhar.
6. Sh. Jagjit Singh, Manager, Milk Union, Amritsar

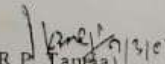
The committee met on 9-3-2007 at Milkfed H.O. and had deliberations on the subject and observed that there is need to review the existing Inter-Union Milk Transfer rate for the year 2006-07 in view of the changed market scenario, availability of milk, NMG rates etc. The committee members unanimously recommended as under :-


1. Milk Union, Mohali will pay NMG + 25% to other Milk Unions from which they purchased milk during the period April 06 to October 06 and from Nov. 06 to March 07 the purchase shall be at NMG rate.
2. Milk Union, Ludhiana will pay NMG + 10 % for the period from April, 06 to Oct., 06 from the Unions from whom they have purchased milk during this period and from Nov. 06 to March 07 the purchase shall be at NMG rate.
3. Remaining Milk Unions will pay at NMG rate for the milk purchased by them from other Unions during the period April 06 to Oct 06 and will pay at the rate NMG - 5% for the period Nov. 06 to March 07 except these mutually agreed by both the Milk Unions.
4. Milk Union Mohali and Ludhiana will charge on sale of milk to other Milk Unions during April 06 to Oct. 06 at NMG rate and NMG (-) 7.5 % from Nov. 06 to March 07.
5. Milk Union, Mohali and Ludhiana will charge NMG - 7.5 % on sale of milk to Milk Plant, Chandigarh for the year 2006-07.
6. Milk Union, Mohali will pay ~~Commission~~ to Milk Union, Patiala and Hoshiarpur @ Rs.3/- per litre of milk on account of milk purchased by them from Milk Producers' Cooperative Societies falling under the milk shed area of Milk Union, Patiala and Hoshiarpur during the year 2006-07.
7. Milk Union, Mohali will pay ~~Commission~~ @ 0.20 paise per ltr of milk to Milk Plant, Chandigarh on account of liquid milk marketed by Milk Plant, Mohali in Chandigarh Territory.

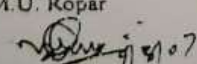
The above Inter-Union Milk Transfer rates are tentative and subject to review keeping in view the market scenario.

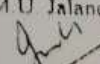
  
(Subhash Sodhi)  
Mgr. (F&A)  
Milkfed, H.O.

  
(M.M. Lohani)  
Mgr. Accounts,  
M.U. Ropar

  
(R.P. Taneja)  
Mgr Accounts  
M.U. Jalandhar

  
(Ashok Gupta)  
Mgr. Accounts  
M.U. Ludhiana

  
(M.L. Saini)  
Mgr. Accounts  
M.U. Hoshiarpur

  
(Jagjit Singh)  
Mgr. (A/cs)  
M.U. Amritsar

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Minutes of the committee meeting, of Accounts Heads of the District Milk Unions held on 3.8.2007 in Milkfed, H.O. to deliberate and recommend Inter Union Milk Transfer rates for the year 2007-08

Sh. Shubash Sodhi, Manager (F&A) Milkfed, H.O.  
Sh. R.P.Taneja, Manager Accounts, M.U. Jalandhar  
Sh. M.L.Saini, Manager Accounts, M.U. Hoshiarpur  
Sh. Ashok Gupta, Manager Accounts, M.U. Ludhiana  
Sh. M.M. Lohani, Manager Accounts, M.U. Mohali  
Sh. Jagjit Singh, Dy. Manager, M.U. Amritsar  
Sh. Suresh Singla, Dy. Manager Accounts, M.U. Bathinda

The committee met on 3.8.2007 at Milkfed Head Office and had deliberations on the subject and observed that there is need to review the existing Inter Union Milk Transfer rates for the year 2006-07 in view of the changed market scenario, availability of milk, NMG rates etc. The committee members unanimously recommended as under:-

1. Milk Union, Mohali will pay NMG + 15% to other Milk Unions from which they have purchased milk during the period April, 07 to Sept., 07.
2. Milk Union, Mohali will pay SNF purchase price @ Rs.130./- per kg SNF plus 15% as processing charges all inclusive towards reconstitutes received from other Milk Unions.
3. Milk Union, Ludhiana will pay NMG + 5% for the period from April, 07 to Sept.07 from the Unions from whom they have purchased milk.
4. Remaining Milk Unions will pay at NMG rate for the milk purchased by them from other Unions during the period April, 07 to Sept.,07 except the transactions agreed by the Milk Unions mutually.
5. Milk Union, Mohali and Ludhiana will charge on sale of milk to the Milk Unions during April, 07 to Sept. 07 at NMG rate.

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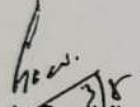
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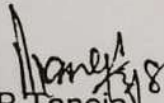
6. Milk Union, Mohali and Ludhiana will charge NMG – 5% on sale of milk Milk Plant, Chandigarh for the period April, 07 to Sept.07.

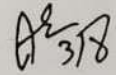
Milk Union, Mohali will pay commission to Milk Union, Patiala and Hoshiarpur @ Rs.3/- per litre of milk on account of milk purchased by them from Producer's Cooperative Societies falling under the milk shed area of Milk Union, Patiala and Hoshiarpur during the period April, 2007 to Sept, 2007.

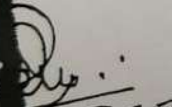
Milk Union, Mohali will pay commission @ 0.20 paise per litre of milk to Milk Plant, Chandigarh on account of liquid milk marketed by Milk Plant, Mohali, Chandigarh Territory during the period April, 07 to Sept.07.

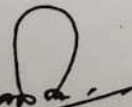
The above Inter-Union Milk Transfer rates are tentative and subject to review keeping in view the market scenario.

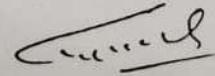
  
(Ash Sodhi)  
Mgr (F&A)  
M.U. H.O.


  
(R.P. Taneja)  
Mgr. Accounts  
M.U. Jalandhar

  
(Ashok Gupta)  
Mgr. Accounts  
M.U. Ludhiana

  
(M.M. Lohani)  
Mgr. Accounts  
M.U. Hoshiarpur

  
(M.M. Lohani)  
Mgr. Accounts  
M.U. Mohali

  
(Suresh Singla)  
Dy, Mgr (A/Cs)  
M.U. Bathinda

  
(Suresh Singla)  
Dy, Mgr (A/Cs)  
M.U. Bathinda

13. From the above letter and Minutes of Meeting, it is clear that the Assessee milk cooperative society is making payment @ Rs. 3/- per liter as decided by the society constituted by the Govt. of Punjab to decide the issue of payment of royalty / commission. Every milk cooperative society collecting milk from the area of milk sheds of other cooperative societies has to pay at the rate of Rs. 3/- per liter to the cooperative society of that milk shed area. The ld. Counsel also argued that the Assessee cooperatives society is constituted by the Govt. of Punjab and it is a statutorily constituted co-operative society / body audited by the Govt. of Punjab. It is making payment to other milk cooperative societies which is also constituted by the Govt of Punjab on the instructions / basis decided by the Govt. of Punjab. So, there is no question of making any extra payment beyond the prescribed rate by the Govt. of Punjab. The Ld. Counsel finally argued that the Milk Cooperative society of Hoshiarpur and Patiala have also confirmed that whatever money commission / royalty they have received from the Ropar District Cooperative Union have already been declared in their profit and loss account

and taxes have already been paid on that. Thus, the ld. Counsel brought it to the notice of the Bench that since taxes have already been paid by District Cooperative Units / Cooperative Societies of Hoshiarpur and Patiala, so, any addition of the same amount in the hands of the Assessee could be tantamount to double taxation of the same amount.

14. We have heard the arguments of the Ld. Counsel of the Assessee as well as of the ld. DR. We have also gone through the order of the Coordinate Chandigarh Bench of the Tribunal remanding the matter on the issue of payment of amount / commission back to the Assessing Officer for re-verification. We have gone through the second-round of assessment as well as appellate order passed by the Assessing Officer and the Ld. CIT(A) respectively. We have also gone through the different documents and papers filed by the ld. Counsel for the Assessee in support of his claim. We find that the nomenclature of commission is the root cause of all confusion. In fact, the ideal term used for the payment

made by the Assessee's Cooperative Society should have been royalty and not commission. It is because other cooperative societies have not rendered any service to the Assessee's Cooperative union but at the same time, they have confirmed the receipt of royalty @ Rs. 3 per liter for the milk collected by the Assessee from their milk shed area and they have also confirmed that they have shown that amount so received in their profit and loss account and they have already made payment of taxes thereon.

15. We, are therefore, of this considered view that the Assessee is a government cooperative society. It has made payment to other government established cooperative societies on the recommendations/ instructions of the Govt. of Punjab which was to be mandatorily accepted and implemented by the Assessee. As there was no choice being a government body to defy the order / instructions of the Government of Punjab making payment at the rate of Rs. 3 per liter for milk collected from other milk shed areas to the Govt cooperative societies of that area, therefore, in our considered view, keeping in view of the

totality of the situation, the addition made by the Assessing Officer and confirmed by the Ld. CIT(A) is not justified. Accordingly, Assessee, appeal on grounds Nos. 1 and 2 are allowed.

16. In the result, Assessee appeal in ITA No. 36/Chd/2023 stands allowed.

**ITA Nos. 357, 358, 359/CHD/2023 & 569/CHD/2022**  
(AYs : 2013-14, 2014-15, 2015-16 & 2012-13)

17. We find the facts and issues involved in all the captioned appeals are identical to that of ITA No.356/Chd/2023 for A.Y. 2009-10 and the only variance is of the amount of additions involved in the different assessment years. Even the arguments put forth by the Representatives of both the parties are similar. Therefore, the findings arrived at by us in the former part of this order will apply mutatis-mutandis to Assessee's appeal for the aforesaid captioned assessment years i.e., 2013-14, 2014-15, 2015-16 and 2012-13 respectively.

18. In the result, all the appeals of the Assessee stand allowed.

Order pronounced on 15.01.2026.

Sd/-

Sd/-

**( LALIET KUMAR )**  
**Judicial Member**

**( KRINWANT SAHAY )**  
**Accountant Member**

“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar

1.	Draft dictated		Sr.PS
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2.	Draft first placed before author		
3.	Approved draft comes to Sr.PS/PS		
4	Final draft placed before author		
5.	Order signed and pronounced on		
6	File sent to the Bench Clerk		Sr.PS
7.	Date on which file goes to the AR		
8.	Date on which file goes to the Head Clerk.		
9.	Date of dispatch of Order		