

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA Nos.626 & 627/Srt/2025
(Assessment Years:2011-12 & 2013-14)

Income Tax Officer, Ward-1, Bardoli.	Vs.	Shree Khedut Sahakari Khand Udyog Mandali Ltd. Baben, Bardoli, Surat-394601. [PAN : AAAAS4554N]
(Appellant)	..	(Respondent)
Appellant by :	Shri Akshay Modi, AR	
Respondent by:	Shri Mukesh Jain, CIT. DR	
Date of Hearing	21.01.2026	
Date of Pronouncement	23.01.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

The captioned two appeal have been filed by the Revenue against the separate orders both dated 26.03.2025 passed by the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("the CIT(A) in short), under Section 250 of the Income-tax Act, 1961 ("the Act"), relating to the Assessment Years 2011-12 & 2013-14.

ITA No.626/Srt/2025 for AY 2011-12

2. The Revenue has raised the followings grounds of appeal:

1. On the facts and circumstances of the case and in law, the Learned CIT(A) has erred in deleting the addition of Rs 160,03,41,255/- made under section 37(1) of the Income Tax Act, ignoring the fact that the assessee failed to produce a copy of the order(s) or other legal instruments issued by the Government regarding price fixation-based on which any excess price was paid for the purchase of sugarcane over and above the Statutory Minimum Price

- 2-

(SMP) which is mandatory for the purpose of income re-computation under Section 155 of the Income-tax Act.

2. On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.

3. It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.

4. The appellant craves leave to add, alter, amend and/or withdraw any grounds of appeal either before or during the course of hearing of the appeal.

3. At the outset, both the parties fairly submitted that the issue raised by the Revenue in both appeals stands covered by the order of the Tribunal in the assessee's own case in **ITA No.738/Srt/2023 and 209/Srt/2024 for AY 2012-13 and 2016-17 dated 25.11.2025**. For the sake of ready reference, the operative portion of said order is reproduced as under:

34. However, while the necessity of a disallowance in principle is thus upheld, the quantification made in the impugned assessment order is not in consonance with the method indicated by the Hon'ble Supreme Court in Tasgaon Taluka (supra) nor with the structured approach adopted in comparable matters, including the order of the CIT(A) in the case of Sahakari Khand Udhog Mandali Ltd. (supra), wherein the profit-embedded portion was isolated by taking the effective rate to non-members as the commercial benchmark and treating only the differential per MT paid to members as embedded surplus (e.g. Rs. 75 per MT x quantity procured from members). A similar approach was also recognized by the Pune Bench in the case of Mohanrao Shinde Sahakari Sakhar Karkhana Ltd., ITA No. 1138/Pun/2017 (AY 2012-13), dated 17.07.2019, where the price paid to non-members was regarded as a purely commercial deal, non-members having no claim on surplus of the co-operative. Guided by these principles, we are of the considered view that the correct method is: (i) to identify, on the basis of the assessee's books and records, the rates paid to members, non-members/nominal members and outside factories; (ii) to treat the rate paid to non-members/outside factories as the commercial benchmark; (iii) to compute the differential per MT between the member's rate and such benchmark; and (iv) to multiply this differential by the quantity of cane purchased from members to arrive at the prima facie profit-embedded component liable for disallowance, subject to any further reduction to the extent the assessee, by cogent contemporaneous evidence, demonstrates that a part of such differential is directly attributable to demonstrable commercial factors (such as quality or recovery) rather than to membership. In the absence of complete computations and supporting material before us, it is neither feasible nor proper to undertake this exercise at the appellate stage. We, therefore, restore the matter to the file of the AO for the limited purpose of recomputing the

- 3-

disallowance strictly in the above manner and in line with the legal principles flowing from the aforesaid judicial precedents, after affording the assessee a final effective opportunity to place all relevant workings and evidence on record. To this extent, Grounds Nos. 6 to 14 are treated as partly allowed, with the ultimate quantification left to be redetermined by the AO in accordance with law. This methodology shall apply mutas mutandis for determination of similar issues arising in the remaining connected appeals forming part of this consolidated adjudication, subject to necessary factual adaptation.

4. Respectfully following the decision of the Co-ordinate Bench (supra), we deem it appropriate to restore the matter to the file of the **Assessing Officer** with a direction to recompute the disallowance in accordance with the direction laid down by the Tribunal in the aforesaid order.

5. In the result, the appeals filed by the Revenue are **allowed for statistical purposes**.

The order is pronounced in the open Court on 23.01.2026.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT

(True Copy)

Surat; Dated 23.01.2026

**mv

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि,अधिकरण अपीलीय आयकर ,/DR,ITAT, Surat,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat