

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 648/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2004-05

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 649/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2006-07

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 650/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2007-08

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 661/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2008-09

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 662/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2010-11

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं. / ITA No. 663/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2011-12

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं. / ITA No. 654/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2012-13

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं. / ITA No. 665/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2013-14

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं. / ITA No. 666/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2014-15

Haryana Urban Development Authority C-3, HUDA Complex, Sector 6 Panchkula, Haryana-134109	बनाम	The Asst. CIT Panchkula Haryana
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Miss Ratan Kaur &

राजस्व की ओर से/ Revenue by : Shri A.K. Jindal, C.A's
Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 11/02/2026
उदघोषणा की तारीख/Date of Pronouncement : 24/02/2026

आदेश/Order

PER BENCH:

All the above appeals have been filed by the Assessee against the separate orders of the Ld. CIT(A)/NFAC, Delhi for the respective assessment years.

2. Since issues involved in the all the above appeals are common and were heard together therefore they are being disposed of by this consolidated order for the sake of convenience and brevity.

3. We shall take up the appeal of the Assessee in ITA No. 649/Chd/2025 for the Assessment Year 2006-07 as a lead case for discussion wherein the assessee has raised the following grounds:

1. A. *That the Ld. CIT(A) has erred in laws and facts of the case in upholding disallowance @ 50% of the annual maintenance charges amounting to Rs. 33,51,75,462/- ignoring the directions of Hon'ble ITAT to allow the expenditure on pro rata basis which is highly unjustified and uncalled for.*

B. The appellant disputes the quantum of addition upheld.

2. *That the CIT(A) has erred in law & facts of the case in upholding the disallowance @ 50% of annual maintenance charges without allowing the set off of the income received against the same which is highly unjustified and uncalled for.*

3. *That the Ld. CIT(A) has erred in laws and facts of the case in not adjudicating the issue regarding the year of allowability of annual maintenance expenditure disallowed in respect of incomplete sectors which is highly unjustified and uncalled for.*

4. *That the appellant craves leave to add, amend or modify any ground of appeal on or before the disposal of the appeal.*

4. Briefly, the facts of the case are that the assessee, M/s Haryana Urban Development Authority, Panchkula, is a local authority engaged in the business of real estate development in urban areas. For the assessment year 2006–07, the assessee filed its return of income declaring total income of Rs. 1,60,40,59,440/-. The assessment was originally completed under section 143(3) on 28.12.2008 at an income of Rs. 577,41,71,360/- after making various additions.

5. As evident from page 1 of the assessment order dated 28.12.2008, the Assessing Officer made, inter alia, an addition on account of 50% of Annual Maintenance Charges amounting to Rs. 33,51,75,462/-.

6. Aggrieved by the said additions, the assessee preferred an appeal before the Ld. CIT(A), who partly allowed the appeal.

7. Both the assessee as well as the Department carried the matter before the Tribunal.

8. The Hon'ble Tribunal, vide order dated 06.02.2018, restored the issue relating to the disallowance of 50% of annual maintenance charges to the file of the Assessing Officer with specific directions to examine the details of completed and incomplete sectors and to determine the allowable expenditure accordingly.

9. In the set-aside proceedings, the Assessing Officer observed that the Hon'ble Tribunal had directed the assessee to furnish details of completed and incomplete sectors, expenses incurred for development and maintenance separately, so as to determine the allowable expenditure.

10. The Assessing Officer issued notices under section 142(1) dated 24.08.2018, 06.09.2018, 19.09.2018 and 27.09.2018 requiring the assessee to furnish the requisite details. The relevant findings of the Assessing Officer are recorded at pages 3 to 7 of the order dated 01.11.2018. In the assessment

order the Assessing Officer reproduced the reply of the assessee and observed as under (page 7 of the order):

"Despite these repeated opportunities, the assessee has not furnished details of complete and incomplete sectors, expenses incurred for development and expenses incurred in maintenance separately. The assessee has also not filed any kind of documentary evidence for support of its claim from which it can be ascertained that the assessee's claim is correct and reliable... Therefore in the absence of any documentary evidence the AO has no other option but to uphold the original order u/s 143(3) dated 28.12.2008. Hence pro-rata disallowance made by the AO amounting to Rs. 33,51,75,462/-... is upheld."

11. Admittedly, before reaching the above conclusion, the Assessing Officer had specifically reproduced the paragraph whereby opportunity was granted to the assessee to furnish the details. The relevant portion reads as under (page 4 of the order):

"In this context, you were required to submit detail of project wise for completed sectors and incomplete sectors in light of the Hon'ble ITAT Order but you have failed to provide the said information/reply. In the absence of any supporting evidence/information, you are show-caused why not disallowance be made on pro-rata basis in the above mentioned assessment years."

Thus, according to the Assessing Officer, despite repeated opportunities, the assessee failed to substantiate its claim with documentary evidence, and therefore the original pro-rata disallowance of Rs. 33,51,75,462/- was sustained.

12. Feeling aggrieved by the order passed by the Assessing Officer, the assessee preferred the appeal before the Ld. CIT(A). The Ld. CIT(A) , while disposing of the appeal, concurred with the findings of the Assessing Officer. It was held that the assessee had not furnished complete sector-wise details along with documentary evidence to demonstrate that the maintenance expenditure pertained to completed sectors handed over or otherwise eligible for deduction.

13. The Ld. CIT(A) observed that mere furnishing of tabulated figures without corroborative documentary evidence was insufficient compliance of

the directions of the Hon'ble Tribunal. Accordingly, the action of the Assessing Officer in sustaining the disallowance was upheld.

14. Now the assessee is in appeal before us. Challenging the order of the lower authorities. On the ground mentioned hereinabove.

15. The Ld. Authorised Representative submitted that the assessee had furnished year-wise and zone-wise details of annual maintenance charges and that the Assessing Officer had taken a hyper-technical view. It was contended that the Tribunal had directed examination of the details and not outright confirmation of the addition. The Ld. AR argued that sufficient details were filed and at least one more opportunity ought to have been granted to reconcile and substantiate the claim. However, the Ld. AR on instruction have confirmed that no details as required by the Tribunal were provided to the Assessing Officer and therefore, the disallowance made by the Assessing Officer may be confirmed. However, it was submitted that the disallowance of expenditure was required to be set off against the income earned by the assessee during the year under consideration from the said expenditure and therefore the effect of the disallowance of expenditure should be considered while computing the income of the assessee. In this regard he had drawn our attention to the order of the CIT(A) wherein at pages 15 and 16 it was submitted by the assessee as under:

In this regard we submit as under:-

After the period of 10 years i.e. once the major development is done, the assessee incurs only routine maintenance expenditure on the projects i.e. the expenses claimed under the head "Annual Maintenance of various sectors" pertains only to maintenance expenses. This does not include expenditure incurred on development. It is a matter of policy that at the time of fixation of price for floatation of sectors, estimation is made taking into consideration the development expenditure to be incurred for 10 years which is duly capitalized by the assessee and not claimed in Income & Expenditure Account before the sectors are treated as completed sectors. There is no element of maintenance cost in the calculation of price fixed for allotment. The amount to be received on account of maintenance from the allottee does not form part of the allotment price. The said amount is recovered separately.

Since the development expenditure incurred till 10 years is capitalized & not claimed till the sectors are treated as completed sectors, the assessee only

claims maintenance expenditure incurred after the period of 10 years as revenue expenditure in Income & Expenditure Account. The assessee also starts recovering charges for maintenance from the allottee once the possession is handed over to the allottees. The said amount is recovered separately and shown as income in the income & expenditure in the year of receipt itself. The assessee is following the policy of treating the amount received from maintenance as income in the year in which it is received & claiming the maintenance expense in the year in which it has been incurred after a period of 10 years. The basis has been adopted on "matching principle" i.e. matching cost with revenue & it is a legally settled principle that expenditure cannot be disallowed even if an activity is resulting in a loss. Accordingly no disallowance is required to be made on account of annual maintenance expenditure.

For the year under reference the assessee has claimed Rs. 54,47,80,516/- as annual maintenance charges in the Income & Expenditure Account. Out of which Rs. 19,61,60,318/- is incurred on sectors between 10 – 20 years and Rs. 34,86,20,198/- on completed sectors. Also, assessee during the year has received Rs. 58,75,32,550/- (Rs. 20,07,37,818/- + 37,81,04,929/- + Rs. 86,89,803/-) as maintenance income on account of water & sewerage charges, extension fees & road cut fees respectively which has been duly shown as income. The Income & Expenditure Account is enclosed herewith. The AO during the set aside proceedings asked the assessee to furnish the details of annual maintenance with bifurcation between expenditure incurred on completed and incomplete sections. The assessee during the course of proceedings submitted the sector wise and zone wise detail of amount incurred on the completed (sectors which are 20 years old) and incomplete sectors (sectors between 10-20 years old) . The detail is enclosed herewith. The same has also been reiterated by the assessing officer in the assessment order itself. The only basis of addition by the AO in original assessment proceedings is that there is no basis for claim of expenditure after the period of 10 years since the sectors are treated as completed sectors after 20 years. The ITAT has also given the findings that the details be submitted with regard to development expenditure and maintenance expenditure and if the assessee fails the disallowance be done on prorata basis.

The assessee has duly submitted the bifurcation of annual maintenance expenditure of completed & uncompleted sectors which has not been accepted by the AO. In this regard it is stated that if the AO was not satisfied, the AO as per the directions of the ITAT should have upheld the disallowance of amount incurred on incomplete sectors only and allowed the amount spent on completed sectors as once the sectors are treated as completed sectors, the entire income & expenditure forms part of income & expenditure account of the year. Therefore, the AO should have at least allowed the amount spent on completed sectors (sectors 20 years old) amounting to Rs. 34,86,20,198/- out of Rs. 54,47,80,516/- as the entire income & expenditure forms part of income & expenditure account of the year and the amount to be considered for disallowance should have been only Rs. 19,61,60,318/- (Rs. 54,47,80,516/- Rs.34,86,20,198/-), which is the amount spent on incomplete sectors. We further submit that for disallowance of amount incurred on incomplete sectors, the same should have been made after setting off the income received against the same i.e. the disallowance should be made only of the net amount after deducting the recoveries against the same.

The assessee during the year has received Rs 58,75,32,550/- as maintenance income on account of water & sewerage charges, extension fees & road cut fees which has been duly accounted for as income. Since the amount

received from maintenance activities is Rs. 58,75,32,550/- which is more than the amount incurred as annual maintenance charges of Rs. 54,47,80,516/, no disallowance should have been made.

Therefore, it is requested that the disallowance made by the AO be deleted.

It is pertinent to mention further that since the admissibility of expense is not in dispute, the annual maintenance expenditure incurred on incomplete sectors if disallowed, will form part of the development expenditure and accordingly it is requested that the direction be given that the amount be allowed in the year in which the sectors are treated as completed sectors and income from these sectors is shown."

16. In the light of the above it was submitted that as has not been decided by the CIT(A), therefore for the limited purposes of setting the expenditure against the income the matter may be remanded to the file of Assessing Officer.

17. The Ld. Departmental Representative supported the orders of the lower authorities and submitted that despite repeated statutory notices, the assessee failed to furnish the requisite bifurcation of expenses between development and maintenance and between completed and incomplete sectors. It was contended that the Assessing Officer was justified in upholding the earlier disallowance in absence of documentary evidence. It was submitted that the prayer of the AR for remanding back the matter for adjudicating these grounds cannot be allowed as it would be beyond the scope of the remand order passed by the Tribunal.

18. We have heard the rival submissions and perused the material available on record, including the orders passed by the authorities below.

19. The Hon'ble Tribunal in the earlier round had specifically directed the assessee to furnish the details of completed and incomplete sectors, expenses incurred for development and maintenance separately in detail, and had directed the Assessing Officer to determine the allowable expenditure accordingly. The directions were clear that the issue was to be examined afresh on the basis of factual verification.

20. From the record, it is evident that the Assessing Officer issued multiple notices under section 142(1) and also a show-cause notice. However, it is also evident that the assessee did furnish certain details in tabular form regarding annual maintenance charges, though the Assessing Officer found the same to be inadequate. In the light of the above we do not find any reason to disagree with the finding given by the Assessing Officer / CIT(A) with respect to disallowance of annual maintenance charges. Accordingly, the ground no. 1 of the assessee appeal is dismissed.

21. With regard to Ground No. 2 of the assessee's appeal, the assessee has asked for set off of the income received against the annual maintenance charges. The above said has been opposed by the Ld. DR on the ground that the same is beyond the scope of the remand order passed by the Tribunal. In our considered view the issue of disallowance of annual maintenance and setting of the income against the same are interconnected and the income of the assessee cannot be determined unless there is a determination of disallowance of annual maintenance charges. Therefore, we are of the considered opinion this issue of setting off the disallowance of annual maintenance charges against the income received is required to be set aside to the file of Assessing Officer. The assessee is directed to produce the evidence of the income earned from the maintenance charges received by it to the satisfaction of the Assessing Officer and in case the assessee is able to establish the same. The Assessing Officer shall consider allowing the set off in accordance with law.

22. The assessee is directed to fully cooperate and furnish all requisite details within the time allowed by the Assessing Officer. In case of failure to do so, the Assessing Officer shall be at liberty to decide the issue in accordance with law on the basis of the material available on record.

23. With these observations, Ground No. 2 is remanded back to the file of the Assessing Officer for fresh adjudication in accordance with law.

24. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24/02/2026

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)

न्यायिक सदस्य /JUDICIAL MEMBER

AG

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar