

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

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 382/Jodh/2024  
(Assessment Year 2020-21)**

<b>Vinay Mittal 3, J Block, Sriganganagar (Raj.) Ward No. 1 Keshrisinghpur Sriganganagar PAN No. AVOPM6894P</b>		<b>Income Tax Officer, Ward No. -1, Sriganganagar</b>
<b>Assessee by</b>	<b>Shri Virendra Jain, Advocate (Physical)</b>	
<b>Revenue by</b>	<b>Shri P.M. Mirdha, Addl. CIT- DR (Virtual)</b>	
<b>Date of Hearing</b>	<b>16.02.2026.</b>	
<b>Date of Pronouncement</b>	<b>26.02.2026.</b>	

**ORDER**

**DR. MITHA LAL MEENA, A.M.:**

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre [hereinafter referred to as the NFAC/ CIT (A)] dated 22.03.2024 with respect to Assessment Year 2020-21.

2. The appellant assessee has taken following grounds of appeal:-

1. *The Ld. CIT(A) has erred in sustaining the order passed by Ld. AO which is bad in law and bad in facts and is contrary to the*

*principles of natural justice. The proceedings u/s 144 are bad in law and bad on facts.*

2. *The Ld. CIT(A) has erred in sustaining the addition u/s 68 of Rs. 96,13,761/- on account of increase in unsecured loans in comparison to previous year. The Assessee could not submit his submission. All the unsecured loans taken during the year is genuine and fair so the addition may kindly be quashed.*
3. *The Ld. CIT (A) has erred in sustaining the addition Rs. 16,82,142/- on account of interest paid on unsecured loans. The said addition is based on imagination and on sweet will because when all the unsecured loans were genuine then interest paid thereon was also genuine so the addition may kindly be quashed.*
4. *The Ld. CIT(A) has erred in confirming the addition Rs. 1,20,55,195/- on account of business expenditure against income. The said addition is based on imagination and on sweet will because no business can be run without the business expenditure so the addition may kindly be quashed.*
5. *The Ld. CIT(A) has erred in sustaining interest charged u/s 234A, 234B and 234C of the Act.*
6. *The appellant prays for justice and relief.*
7. *The appellant crave liberty to add, amend, alter or modify any of the ground of appeal on or before its hearing before your honours.*

3. First we take up the issue challenged by the Assessee as regards to the confirmation of addition of Rs. 1,20,55,195/- on account of rebate expenditure against commission income.

4. The AO alleged that the nature of the business carried by the Assessee is wholesale of food, beverages and tobacco. During the year the Assessee has claimed expenses of Rs. 1,20,55,195/- against commission income 1,24,78,611/- in the ITR filed for the assessment year 2020-21 while there was no such information available in the Audit Report, Balance Sheet and Profit and Loss Account uploaded by the Assessee.

5. The AO stated assessee failed to provide various details and documentary evidences in compliance of notice under Section 142(1) related to the commission income and expenses thereon and that the Assessee failed to submit any further response, accordingly, the AO disallowed the expenses claimed of Rs. 1,20,55,195/- as not verifiable and not allowable to the Assessee looking into the nature of the business.

6. Being aggrieved with the assessment order, the Assessee has filed an appeal before the Ld. CIT(A) who has endorsed the finding of the AO by observing that several notices under Section 250 of IT Act were issued to the appellant through ITBA(A), which amounts to service of notice as provided under Section 280 of the Act. However, there has been no

response of the appellant. Accordingly, he held that in view of the aforesaid non-compliance on the part of the appellant, instant appeal is adjudicated as ex-parte qua the assessee on merits of the case on the basis of documents available on record.

7. The Ld. AR for the Assessee submitted that the Assessee has maintained books of accounts in accordance with the prescribed standard as per Section 145 of the Act and duly audited by a Chartered Accountant in terms of Section 44AB of the IT Act with a Audit Report in form no. 3 furnished along with return of income.

8. The AR argued that the audit report cannot be ignored as the statement of account as per the audit report are binding on the Assessing Officer except in cases falling under Section 145(3) which is not the case of the Assessee. The AR further argued that since in the present case, the AO has not rejected the books of accounts and therefore, net profit shown in the profit and loss account and duly certified by the auditor has to be accepted as correct. The AR submitted that the Assessee has not claimed any expenses against the commission income but it was the Tax Rebate granted to the Assessee which has been claimed as rebate expenses as per the Audited Statement of

Accounts. A copy of the trading account for the year under consideration has been filed on record which is reproduced herein for the ready reference:-

Vinay Mittal  
Sangrur

**TRADING ACCOUNT FOR THE PERIOD OF 01.04.2019 TO 31.03.2020**

<u>PARTICULARS</u>	<u>AMOUNT</u>	<u>PARTICULARS</u>	<u>AMOUNT</u>
<b><u>GST Goods A/c:-</u></b>			
<b><u>To Pruchase:-</u></b>		<b><u>To Sales:-</u></b>	
			<b><u>211,328,173.00</u></b>
Bear Purchased	13743586.91	13,901,996.99	Bear Sale
			46,932,497.00
Beer/ Whishky purchase	16447971.89		Beer/ Whishky Sale
			129,760,862.00
Vat A/c	25345871.62		Whishky Sale
			34,634,814.00
<b><u>To rebate expenses</u></b>		<b><u>12,055,195.00</u></b>	<b><u>By rebate income</u></b>
			<b><u>12,417,202.00</u></b>
		<b><u>Closing Stock:-</u></b>	
		17,682,004.00	
<b><u>To Direct Expenses:-</u></b>		<b><u>89,120,214.00</u></b>	
Additional license fees	68855.00		
Country Spirits license fees	2515000.00		
ETD Cess	60416.00		
Exise Duty	85383549.00		
Freight	820050.00		
Packaging material expenses	170000.00		
Permit Fees	49278.00		
Permit Fees L-1 to L-1	53066.00		
<b><u>To Gross total</u></b>		<b><u>2,349,973.01</u></b>	
<b><u>Total</u></b>		<b><u>241,427,379.00</u></b>	<b><u>241,427,379.00</u></b>

9. The Ld. AR argued that when Assessee's receipts are accepted as commission income for charging tax in the hands of the Assessee then corresponding tax rebate expenses has to be allowed. He pleaded that the addition made by way of disallowance of business expenses amounting to Rs. 1,20,55,195/- may be deleted.

10. The Ld. DR on the other hand placed reliance on the order of the lower authority.

11. We have heard the rival submissions and perused the material on record. Admittedly the Assessee has claimed rebate expenses of Rs. 1,20,55,195/- against the rebate income of Rs. 1,24,17,202/- as evident from the audited trading account reproduced as above.

12. We find that the AO has ignored the claim of the appellant of rebate expenses amounting to Rs. 1,20,55,195/- under the pretext of expenditure although the rebate expenses which is a commission were directly interlinked to each other in the given nature of the business of the assessee by looking to the size of the sale turnover being more than 21 crores in our view, the Sangrur rebate grant/ expenses shown is quite fair and justified.

13. It is seen that the Assessee has been regularly claiming this discount/ rebate claim from the preceding many years. In our view it is by very general nature of the business if a businessman promotes his sales, he has to apply a business policy to increase the sales and grant rebate in part of that policy to the customers.

14. In the present case it is evident from record that the discount amount of Rs. 1,20,55,195/- being claimed as rebate paid has been part of that rebates which was received by Assessee amounting to Rs. 1,24,17,202/- by the Assessee from various companies. Thus, the Assessee has incurred the rebate expenses out of the rebates income which has received from the various companies in turn the same money was used by the Assessee to give to incur the disputed rebate expenses on his customers. Meaning thereby by no stretch of imagination, the aforesaid rebate expenses shown in the balance sheet amounting to Rs. 1,20,55,195/- can be treated as business expenditure of the Assessee out of the business income. Copy of the rebate accounts paid and received is placed on record as per Assessee's paper book page No. 33-40 along by copy of the statements of accounts and profit and loss A/c of Sangrur Branch of Assessee.

15. Considering the factual matrix in the nature of business of the Assessee, we accept the grievance of the Assessee as genuine and, therefore, we hold that the Assessing Officer (AO) and the CIT(A) were not justified in making the addition on account of aforesaid rebate expenses as aforesaid business expenses. As such the rebate expenses disallowance of Rs. 1,20,55,195/- is deleted.

16. The next issue challenge by the Assessee pertains to the Addition of Rs. 96,13,761/- on account of unsecured loans.

17. The Ld. AR has filed an application for admission of additional evidence under Rule 29 of the ITAT Rules, 1963 in the form of audited statement of accounts which could not be furnished before the authorities below due to wrong mail ID jain.nk7gmail.com along with Mobile No. +91 9352693007 provided at the time of registration ITBA Portal which was being belonging to his old CA who never complied with nor informed the Assessee about the notice issued by the AO and CIT(A) during the assessment proceedings. In support the AR has placed reliance on judgment of Hon'ble Supreme Court in case of Tek Ram 262 CTR 118 for addition of additional evidence and Hon'ble

Punjab and Haryana High Court in the case of Mukta Metal Works 336 ITR 555 filed on record.

18. The additional evidences filed by the Assessee U/R 29 of the ITAT Rules, 1963 on vital documentary evidence which goes to the root of the matter and that assessee was prevented by sufficient cause to produce same before authorities below. Therefore, the additional evidences filed are admitted on record.

19. The AO has observed that there was increase in the unsecured loans from the other persons amounting to Rs. 96,13,761/- and that the identity, creditworthiness and genuineness of the loan creditors could not be substantiated by the Assessee. Accordingly, the AO has treated the amount of Rs. 96,13,761/- as unexplained cash credits and added to the total income of the Assessee under Section 68 read with Section 115 BBE of the Income Tax Act under the head of income from other sources besides interest expenses claim of Rs. 16,82,142/- on the aforesaid unsecured loans.

20. We have heard both the sides and perusal of record, the AO and the Ld. CIT(A) has passed ex-parte order on the issue of disallowance made on account of unexplained unsecured loans and interest paid

thereon during the non-compliance of assessee during the course of Assessment Proceedings.

21. The Ld. counsel for the Assessee submitted that the addition on account of unsecured loans were unwarranted in the present case as unsecured loans are genuine, with explained sources of income and established identity.

22. In the present case, the AO and the CIT(A) has passed the orders ex-parte qua the Assessee on the issue of unsecured loans and the interest expenses without appreciating the merits of the case. After considering additional evidence filed by the Assessee under Rule 29 of ITAT Act as admitted on record, we are of the considered view that the Assessee appellant deserves one more opportunity of being heard to be granted to the Assessee by the AO in view of the principles of natural justice.

23. Accordingly we send back the matter to the file of the AO to decide the issue of examination and verification of unsecured loans and interest expenses claimed afresh after granting adequate opportunity of being heard to the Assessee and considering the written submissions may be filed by the Assessee during the fresh assessment proceedings.

At the same time the Assessee shall cooperate with the Assessing Officer for fresh assessment proceeding. In our view of the above, the second issue of unsecured loans and interest expenses is remanded back to the Assessing Officer to adjudicate de-novo in accordance with law.

24. In the backdrop of the aforesaid discussions, the appeal of the Assessee is partly allowed for statistical purposes.

**Order pronounced on 26/02/2026 in the open court.**

**Sd/-  
(SUDHIR PAREEK)  
JUDICIAL MEMBER**

**Sd/-  
(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER**

**Dated : 26/02/2026.**

***Pritesh Vaishnav PS***

*True Copy*

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,