

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC', BANGALORE**

**BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER
ITA No. 1494(Bang) 2016(Assessment year : 2008 - 09)**

The ITO, Ward 1 (1),
Hubballi

Respondent

Vs

Shri Hafizhussain A. Kamangar,
Prop.: Abdulla Traders,
No. 9/A, APMC Yard,
Hubballi
PAN : ABOPA2469C

Appellant

**Assessee by : None
Revenue by : Shri Naresh Saka JCIT**

**Date of hearing : 19-09-2016
Date of pronouncement : 21-09-2016**

ORDER

PER A. K. GARODIA, A.M.:

This appeal is an appeal filed by the revenue. This is directed against the order of learned CIT (A) Hubli dated 31.03.2016 for A. Y. 2008 - 09.

2. None appeared on behalf of the assessee in spite of notice and hence, I proceed to decide this appeal of the revenue exparte qua the assessee. Learned DR of the revenue supported the assessment order.

3. I have considered the facts of the case and gone through the orders of the lower authorities. I find that the grievance of the revenue is about deletion of the disallowance made by the A.O. u/s 40A (3) of the I. T. Act. I also find that this was a claim of the assessee before the A.O. also that major payment of Rs. 47,06,099/- out of total cash payments of Rs. 48,31,756/- is made to one m/s Abdulla Sab Kamangar, who was acting as an agent for purchase of Onion and therefore, as per clause (k) of Rule 6DD

of Income Tax Rules, 1962, Section 40A (3) is not applicable. The A.O. decided the matter against the assessee on this basis that as per the ledger account of this party, it is seen that all the credit entries are shown as "By Onion Purchase Account" and therefore, it cannot be said that this payment was made to this party for acting as agent. I find no valid basis of this objection of the A.O. Learned CIT (A) has given a categorical finding on page 11 of his order that the assessee has filed complete details of the agent i.e. a certificate from APMC that Shri Abdulla Sab Kamangar is an agent and also filed a confirmation from the agent that he insisted for cash payment only for the purpose of distribution of the same to the growers of Agricultural Produce and these findings of learned CIT (A) could not be controverted by the learned DR of the revenue. Hence, I decline to interfere in the order of CIT (A).

4. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore:

D a t e d : .09.2016

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order,
AR, ITAT, Bangalore

1.	Date of Dictation
2.	Date on which the typed draft is placed before the dictating Member
3.	Date on which the approved draft comes to the Sr. P. S.
4.	Date on which the order is placed before the dictating Member for pronouncement
5.	Date on which the order comes back to the Sr. P.S.
6.	Date of uploading the order on website
7.	If not uploaded, furnish the reason for doing so.....
8.	Date on which the file goes to the Bench Clerk
9.	Date on which order does for Xerox & endorsement
10.	Date on which the file goes to the Head Clerk.....
11.	The date on which the file goes to the Assistant Registrar for signature on the order.....
12.	The date on which the file goes to the dispatch section for dispatch of the Tribunal order.....
13.	Date of dispatch of order.....