

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD
BEFORE S/SHRI SANJAY GARG, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER
ITA No.2075/Ahd/2024
Asstt.Year : 2018-2019

Gordhandas Narandas Vaishnav 40, 1 st Floor, APMC Iqbalgadh Prop: GN Traders Iqbalgadh 385 135 PA: AKWPV 8111 B	Vs.	The ITO, Ward-1 Palanpur.
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(Applicant)		(Responent)
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Assessee by :	Shri Chetan Agarwal, AR
Revenue by :	Shri Kalpesh Rupavatia, Sr.DR

सुनवाई की तारीख / **Date of Hearing** : 29/09/2025
घोषणा की तारीख / **Date of Pronouncement**: 30/09/2025

आदेश / O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 22.11.2024 of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as "CIT(A)"] for Assessment Year 2018-19, arising out of the assessment framed by the National e-Assessment Centre, Delhi [hereinafter referred to as "Assessing Officer / AO"] under section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] vide order dated 25.02.2021.

2. Facts of the Case

2.1 The assessee, an individual, had filed his return of income for the year under consideration on 30.10.2018 declaring a total income of Rs.6,05,200/-. The return was processed by the Centralised Processing

Centre under section 143(1) of the Act on 22.08.2019 after adding the differences as mentioned in form 3CD. Namely –

- a. Inconsistency in amount debited to profit and loss account of the previous year but disallowable under section 43B amounting to Rs.1,35,27,979/-
- b. Inconsistency in Amount disallowable under section 40(a)(ia) on account of non-compliance with the provisions of Chapter XVII-B amounting to Rs.54,96,402/-

2.2 Subsequently, the case was selected for limited scrutiny through CASS on the specific issue of “lower amount disallowed under section 40(a)(ia) in comparison to the Audit Report.” Consequently, notice under section 143(2) of the Act was issued on 22.09.2019, followed by multiple notices under section 142(1) of the Act along with questionnaire on different dates including 04.11.2020, 02.12.2020, 19.12.2020, 01.01.2021, and 18.01.2021.

2.3 During the course of assessment proceedings, the assessee, in response to the notices issued under section 142(1), furnished certain documents through the ITBA portal on 08.02.2021 and explained that he was engaged in the trading of agricultural commodities, mainly castor seeds and *guwar* seeds, purchasing the same from farmers and selling them to millers, apart from carrying out commission business on behalf of his parties. The Assessing Officer noted from the Tax Audit Report furnished in Form 3CD that under Clause 21, the assessee had made certain payments on which tax was deductible but no tax had been deducted. These included: C.M. charges of Rs.14,03,537/-, godown rent of Rs. 28,11,525/-, payments to contractors of Rs.2,03,850/-, interest of Rs.1,33,52,177/-, and commission of Rs.5,50,524/-. The aggregate of such payments was Rs.1,83,21,340/-. Applying disallowance @30%, the figure of Rs.54,96,402/- was computed as inadmissible expenditure under section 40(a)(ia). The Assessing Officer further noticed inconsistency in the return of income vis-à-vis the Tax Audit Report with respect to statutory

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disallowance under section 43B, where the Audit Report disclosed Rs.1,35,27,979/- as inadmissible, but the return showed NIL. These discrepancies, aggregating to Rs. 1,90,24,381/-, were proposed to be added to the income of the assessee. Accordingly, vide order dated 25.02.2021, the total income was assessed at Rs.1,96,29,580/-

2.4 The assessee preferred appeal before the learned CIT(A). During appellate proceedings, the CIT(A) issued multiple notices of hearing under section 250 of the Act on various dates, namely 09.11.2022, 25.01.2024, 15.02.2024, 28.02.2024, and 08.03.2024. However, there was no compliance from the assessee, and no written submissions were furnished in support of the grounds. The CIT(A) therefore proceeded to adjudicate the appeal based on material available on record. Relying on section 114(g) of the Indian Evidence Act, 1872 and drawing adverse inference from the assessee's non-compliance, the CIT(A) held that the onus was on the assessee to dislodge the findings of the Assessing Officer, which had not been done. The CIT(A) further observed that the disallowances were made on the basis of adverse remarks given by the statutory auditor in the Tax Audit Report in Form 3CD. The assessee neither controverted nor got the audit report revised. In such circumstances, reliance placed by the Assessing Officer on the Audit Report was found to be reasonable. The CIT(A) thus upheld the additions made under section 40(a)(ia) of Rs.54,96,402/- and under section 43B of Rs.1,35,27,979/-.

3. Aggrieved by the order of CIT(A), the assessee has preferred the present appeal before us raising the following grounds:

1. *The Ld.CIT(A) erred in law as well as on fact in dismissing appeal is ex-parte.*
2. *The Ld.CIT(A) erred in law as well as on fact in upholding disallowance of Rs.54,96,402 u/s.40(a)(ia) of the Act.*
3. *The CIT(A) erred in law as well as on fact in upholding disallowance of Rs.1,35,27,979 u/s.43B of the Act.*

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3.1 During the course of hearing, the learned Authorised Representative submitted that the non-compliance before the Assessing Officer as well as before the learned CIT(A) was not deliberate. It was explained that the assessee had entrusted the responsibility of attending to the proceedings and making compliance to his then consultant, who, however, failed to act diligently. The default was entirely on account of inaction of the consultant and not due to any intentional lapse on the part of the assessee. It was further contended that the assessee has since changed his representative and has engaged a new counsel for effectively prosecuting the present appeal and ensuring full compliance in future. The AR, therefore, pleaded that one more opportunity may be granted to the assessee in the interest of justice. An affidavit to this effect has been placed on record.

3.2 In response, the learned Departmental Representative supported the orders of the lower authorities. It was submitted that adequate opportunities had been provided to the assessee at both stages, yet there was consistent non-compliance. The learned DR further pointed out that the additions made by the Assessing Officer were based on clear discrepancies noticed from the Tax Audit Report itself, particularly with reference to the inadmissible expenditure reported under section 43B and the defaults noted under section 40(a)(ia). In such circumstances, the Assessing Officer was justified in bringing the amounts to tax, and the learned CIT(A) rightly confirmed the additions.

3.3 The learned Authorised Representative further submitted that the assessee has since collected certain certificates in Form 26A from the concerned recipients of payments, which go to demonstrate that the payees have duly offered the respective income to tax. It was contended that these certificates can be produced before the Assessing Officer for verification, and in such circumstances, disallowance under section 40(a)(ia) would not survive in view of the second proviso to the said section. The AR accordingly

pleaded that the matter may be restored to the file of the Assessing Officer for verification of such evidences in the interest of justice.

4. We have carefully considered the rival submissions and perused the material available on record. The facts reveal that the assessee was non-compliant before both the Assessing Officer as well as before the learned CIT(A), which led to additions being sustained ex-parte. At the same time, it is also the plea of the assessee that such non-compliance was not deliberate but attributable to the inaction of his earlier consultant, and that the assessee is now prepared to fully cooperate in the proceedings. It has also been submitted that the assessee has obtained certain certificates in Form 26A from the payees, which go to the root of the disallowance under section 40(a)(ia) of the Act and which require verification by the Assessing Officer.

4.1 The learned Departmental Representative has fairly raised no objection if the matter is restored to the file of the Assessing Officer for fresh adjudication in accordance with law.

4.2 In the totality of the facts and in the interest of justice, we are of the considered view that one more opportunity deserves to be granted to the assessee, subject to a cost so as to ensure due diligence in future. We accordingly set aside the impugned order of the learned CIT(A) and restore the matter to the file of the Assessing Officer for fresh adjudication of all issues on merits after affording due opportunity to the assessee.

This restoration, however, shall be subject to the condition that the assessee deposits a sum of Rs.5,000/- as cost by way of donation to the Prime Minister's National Relief Fund, proof of which shall be furnished before the Assessing Officer at the time of set-aside proceedings.

4.3 We make it clear that the assessee shall cooperate fully in the proceedings before the Assessing Officer and produce all relevant evidences

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including the certificates in Form 26A for verification. The Assessing Officer shall thereupon decide the matter afresh in accordance with law.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Court on 30th September, 2025 at Ahmedabad.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 30/09/2025