

No disallowance on cash purchase of 'GUR' from farmers as they didn't have bank a/c: ITAT

Summary – The Kolkata ITAT in a recent case of Tum Nath Shaw, (the Assessee) held that where assessee made payment in excess of Rs. twenty thousand towards purchase of jaggery from farmers, in view of fact that those farmers were mostly uneducated and did not know how to operate bank accounts, assessee's case would fall under Rule 6DD and, thus, impugned disallowance made under section 40A(3) was to be deleted

Facts

- The assessee being a commission agent, was also a trader in jaggery. During relevant year, the assessee made purchases of Gur in cash in excess of Rs. 20 thousand. The assessee submitted before the Assessing Officer that Gur trading was done with those customers who did not have bank account in village and as such the assessee was to be given benefit under rule 6DD(J) of the 1962 Rules.
- However, the Assessing Officer noted that Gur/jaggery was a by-product of sugarcane and as such it was not an agricultural product but rather it was a product of the sugarcane and hence the benefit under rule 6DD could not be extended to the assessee. He thus made disallowance under section 40A(3) in respect of payments made in cash, exceeding Rs. 20,000.
- The Commissioner (Appeals) confirmed the addition made by the Assessing Officer.
- On second appeal:

Held

- It is noted that considering the size and nature of the business and the product in which the assessee deals in the village and remote area and kind of the people involved in the business (that is, most of the peoples are farmers), the gur and jaggery trading were being done mostly on cash basis. Most of the farmers have factory to produce gur and jaggery in the farmhouse itself where the sugarcane is produced therefore it cannot be said that farmers are not involved in manufacturing gur and jaggery. When it comes to the farmers, the general phenomenon and perception is that the Indian farmers are mostly uneducated and do not know-how to operate the bank account. The gur and jaggery production is not an agricultural activity but farmers are involved in producing gur and jaggery, as explained above, therefore, there are more chances to do the transactions in cash. Further, the books of account of the assessee were audited and books of account were not rejected by the Assessing Officer. The Assessing Officer has not taken any adverse view on the assessee's books of account, so far this addition is concerned. Apart from this, the Assessing Officer has not doubted the purchase and sales made by the Assessing Officer.
- Thus, the assessee's claim falls under rule 6DD(J) of the 1962 Rules. It will be pertinent to go into the intention behind introduction of provisions of section 40A(3) at this juncture. The said provisions

was inserted by Finance Act, 1968 with the object to curbing expenditure in cash and to counter tax evasion. In the assessee's case, there is no tax evasion, as the books of account were duly audited by the Chartered Accountant and Assessing Officer has not rejected the books of the assessee and the payee has offered the tax. Therefore, the addition made by the Assessing Officer and confirmed by the Commissioner (Appeals) needs to be deleted.