

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A' CHANDIGARH

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 1062/CHD/2025

निर्धारण वर्ष / Assessment Year. : 2018-19

The DCIT, Panchkula.	Vs	Haryana Urban Development Authority, Sector 06, Panchkula.
स्थायी लेखा सं./PAN NO: AAAAH0087M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Revenue by : Shri Manav Bansal, CIT DR
Assessee by : Ms. Rattan Kaur, CA

Date of Hearing : 24.11.2025
Date of Pronouncement : 27.01.2026

O R D E R

HYBRID HEARING

PER RAJ PAL YADAV, VP

The Revenue is in appeal against the order of the Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 23.06.2025 passed for assessment year 2018-19.

2. The solitary ground of appeal taken by the Revenue reads as under :

"Whether on the facts and in the circumstances of the case, the Ld.CIT(A) is right in law in holding that the salaries paid to the employees of the Department of Urban Estates on account of transfer of functions overtaken by the HUDA is allowable business expenditure ignoring the aspect that

Department of Urban Estate is a separate Department of State Government under Administrative control of Director General, Town & Country Planning?"

3. The 1d.CIT (Appeals) has dealt with the issue in paragraph 8 at page 34 to 35. The findings of the 1d.CIT (Appeals) read as under:

"Disallowance of expenditure on employees of DUE

8. *The appellant has contended that the Ld. AO is not justified in disallowing an amount of Rs. 7,01,24,201/- as expenditure on salary of employees of Deptt. Of Urban Estate operating at H.O. of the appellant under the facts and circumstances of the case.*

8.1 *With regard to this ground, the appellant submitted that Hon'ble Tribunal, in assessee's own case in appeal for assessment year 2004- 05 & 2006-07 to A. Y. 2014-15 vide order dated 06.02.2018 has decided the issue in favour of assessee' by stating as under:-*

"Para 723. We have gone through the facts of the case and material on the record. The employees of the Department of Estates have been working owing to the reasons of transfer of functions overtaken by the HUDA. Since these employees are certainly working for HUDA fully and wholly it cannot be said that the salaries paid to the employees is not for business purpose. In the absence of diversion of employees from department of Estates, HUDA would have to hire outside manpower and also require to pay them accordingly. Keeping in view the functions performed by the employees for HUDA the expenses out of salary cannot be treated as non business expenditure. The principle whether to allow this expenditure are not when the profits are estimated and the arguments taken by both the parties on this aspect are found to be not applicable in the peculiarities of the facts emerging out of the issue of drafting of employees of Department of Estates to work for HUDA. The addition confirmed by the Ld. CIT(A) is hereby directed to be deleted."

8.2 *Further, the appellant submitted that the similar addition was also made in AY 2015-16, which have been deleted by CIT(A) vide order dated 18.03.2019. The copy of the order is submitted by the appellant. Further, the appellant stated that the department had filed an appeal on the said issue before Tribunal. The Tribunal vide order dated 21.10.2020 has upheld the order of CIT(A) (refer Para 11 of ITAT Order) & dismissed the revenue's appeal in AY 2015-16. The copy of the order is submitted by the appellant."*

4. The 1d. CIT DR relied upon the order of AO and on the other hand 1d. counsel for the assessee submitted that issue in dispute is covered in favour of the assessee by the order of ITAT passed in assessment year 2004-05, 2006-07 to 2011-12 and 2014-15. Copy of this order in the group of 23 appeals has been placed before us.

5. With the assistance of 1d. Representative, we have gone through the record carefully. We find that identical issue was considered by the Tribunal in these years and it has been decided in favour of the assessee. The findings of the Tribunal read as under :

Salary of Employees of Department of Urban States

118. Ground No. 4 of the appeal of the Revenue for the Assessment years 2012-13 & 2013-14 and 2014-15 and Ground No. 8 of the Assessee appeal for the Assessment Years 2012-13, 2014-15 and Ground No. 7 of the Assessee appeal for the Assessment Year 2013-14 deals with disallowance of Rs. 3,96,79,223/- and confirming of Rs. 82,19,472/- by the Ld. CIT(A) out of the total amount claimed in P&L Account of Rs. 4,10,97,364/. Thus this issue is involved in Revenue as well as Assessee's appeal.

119. During the assessment the Assessing Officer has held that the administrative expenses were paid to various employees of Department of Urban Estates operating at Head Office. The Assessing Officer held that since Department of Urban Estates is a separate department of State Government hence any justification of payment to those employees cannot be accepted to.

120. Ld.CIT(A) has restricted the amount to 20% on the grounds that the disallowances of various charges have been restricted at 20% of expenses pertaining to recoveries from allottees hence the salary expenses reimbursed are also restricted at 20%.

121. Before us the Ld. AR argued that the amount pertains to salary of various employees & other contingent expenditure of Department of Urban Estate (DUE) operating at Head Office and the employees of Urban Estate Department

had to work only for HUDA. Further, during the year 1977, the various functions of the Urban Estate Department were taken over by HUDA, for which it was decided that HUDA will incur expenditure on salary & allowances & other contingent expenditure of the Urban Estate. The Ld. AR further argued that it is not out of place to mention that the HUDA is bearing such expenses since past so many years & claiming the same as such in the Income & Expenditure Account and the same have been accepted as such by the Income Tax Department. It was also argued that moreover it is an expenditure on salary, allowances and other contingent expenditure on staff which is allowable as office & administrative expenditure. The genuineness of expenditure, quantum of expenditure is not in doubt nor it has been held to be expenditure for non business purpose. The Ld.AR further argued that having estimated the profits on account of indirect charges no separate addition or disallowances can be made by the Revenue.

122. The Ld. CIT DR argued that the Assessee's contention that no separate addition is called for when income has been estimated is not acceptable. Assessee has not followed appropriate method of accounting hence these expenses cannot be colored as revenue expenses. He argued that every assessment year is a separate assessment year and principle of res-judicata is not applicable in the Income Tax proceedings. Further, reliance placed by the assessee i.e. HUDA on the following cases is not applicable as in the case of Assistant Commissioner of Income Tax vs. Lakshmi Industries (2011) 135 TTJ (Chennai) facts are different in that case as compared to the instant case as that case belongs to search and seizure assessment. Hence this case is not applicable, similarly in the case of Commissioner of Income Tax vs. Aggarwal Engg. Co. (Jal.) (2006) 302 ITR (P&H) 0246 facts are different in that case as compared to the instant case as in that case after addition on the basis of net profit rate other additions were made on account of purchase and introduction of cash. Hence this case also is not applicable; In the case of Commissioner of Income Tax vs. Smt. Santosh Jain (2008) 296 ITR 324 (P&H) facts are different in that case as compared to the instant case as that case belongs to search and seizure assessment. Hence this case too is not applicable, and in the case of Assistant Commissioner of Income Tax vs. Sarv Prakash Kapoor (2009) 119 ITD (Agra)(TM) 197 facts are different in that case as compared to the instant case as in that case assessee is in Civil Construction Business, whereas in the instant case the assessee is not in construction business in true sense. Hence this case is not applicable. The Department of Urban Estate is a separate department of State Government workings under the administrative control of Director General Town and Country Planning. AO is right that the entire expense claimed on account of salary paid to employees of Department of Urban Estates by holding that the Department of Urban Estate is a separate Department of State Government working under me administrative control of Director General Town and Country Planning. Therefore the Ld. DR argued that the order of the AO is requested to be restored.

123. We have gone through the facts of the case and material on the record. The employees of the Department of Estates have been working owing to the reasons of transfer of functions overtaken by the HUDA. Since these employees are certainly working for HUDA fully and wholly it cannot be said that the

salaries paid to the employees is not for business purpose. In the absence of diversion of employees from Department of Estates, HUDA would have to hire outside manpower and also require to pay them accordingly. Keeping in view the functions performed by the employees for HUDA the expenses out of salary cannot be treated as non business expenditure. The principle whether to allow these expenditure are not when the profits are estimated and the arguments taken by both the parties on this aspect are found to be not applicable in the peculiarities of the facts emerging out of the issue of drafting of employees of Department of Estates to work for HUDA. The addition confirmed by the Ld. CIT(A) is hereby directed to be deleted.”

6. There is no disparity in the facts and circumstances, therefore, respectfully following the order of the Co-ordinate Bench, we do not find any error in the order of the ld.CIT (Appeals). This appeal is dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced on 27.01.2026.

Sd/-

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

“Poonam”

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

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