

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 1007/Del/2017
Assessment Year: 2012-13

GULATI PACKAGING PVT. LTD.
B-4/3183,
VASANT KUNJ,
NEW DELHI
(PAN: AAACG0184C)
(ASSEESSEE)

vs. ITO, WARD 10(4),
NEW DELHI

(RESPONDENT)

Assessee by: Sh. K. Sampath, Advocate & Sh. V.
Rajakumar, Advocate

Revenue by: Sh. Pradeep Singh Gautam, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 14.12.2016 passed by the Ld. CIT(A)-22, New Delhi relating to Assessment Year 2012-13 on the following grounds.

1. That in any case and in any view of the matter, action of the Ld. CIT(A) in confirming the action of AO in framing the impugned assessment order u/s. 143(3) is bad in law and against the facts and circumstances of the case.
2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of AO in treating the profit from sale of agriculture land of Rs. 23,43,528/- as normal income instead of exempted income and impugned addition has been made by recording incorrect facts and findings and without considering the evidences and submissions filed by the assessee and without bringing any contrary material on records.
3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not

reversing the action of AO in not allowing the depreciation of Rs. 2,54,408/- that too without considering the submissions of assessee and Ld. CIT(A)'s order to this extent is non-speaking and that too without any basis.

4. That having regards to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging the interest as per law.
5. That the appellant craves to leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

2. At the time of hearing, Ld. Counsel for the assessee stated that assessee has attached all the documentary evidences before the Assessing Officer and Ld. CIT(A), which have not been properly appreciated by them and passed their orders without giving sufficient opportunity to the assessee for substantiating his case. He also draw my attention towards page no. 1-32 of the Assessee's Paper Book in which he has attached the copy of written submissions dated 06.12.2016; copy of purchase deed and copy of Parman Patra from Tehsildar, which were not properly examined/verified by the AO. Hence, he requested that issues in dispute may be set aside to the file of the AO for fresh consideration, after giving adequate opportunity of being heard to the assessee.

3. Ld. DR has not raised any objection on the request of the Ld. Counsel for the assessee.

4. I have heard both the parties and perused the orders of the revenue authorities. I find considerable cogency in the submissions of the Ld. Counsel for the assessee that assessee has attached all the documentary evidences before the Assessing Officer and Ld. CIT(A), which have not been properly appreciated by them and passed their

respective orders. I further find cogency in assessee's counsel submissions that page no. 1-32 of the Assessee's Paper Book in which he has attached the copy of written submissions dated 06.12.2016; copy of purchase deed and copy of Parman Patra from Tehsildar, needs to be properly appreciated by the AO, which has not been properly appreciated by the AO. Accordingly, in the interest of justice, the issues in dispute are set aside to the file of the Assessing Officer for fresh consideration, after giving adequate opportunity of being heard to the assessee and also examine all the evidences/documents to be filed by the Assessee to substantiate his case. Assessee is directed through his counsel to fully cooperate with the Assessing Officer in the proceedings and did not take any unnecessary adjournment with the liberty to file any evidence before the AO to substantiate his case.

5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 02/12/2019.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date 02/12/2019

"SRB"

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches