

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

**SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISHRA, ACCOUNTANT MEMBER**

**ITA No. 4602/Del/2017
Assessment Year: 2013-14**

Income-tax Officer,
Ward 60(4), New Delhi.

vs

Fish Poultry & Egg Marketing
Committee, Fish Market Complex,
Gazipur, New Delhi.
PAN: AAATF 0883G

(Appellant)

(Respondent)

**Appellant by Sh. Dheeraj Garg, Sr. DR
Respondent by Mrs. Avnish Ahlawat, Adv. &
Sh. Paras Chaudhary, Advocate**

**Date of Hearing 02.01.2020
Date of Pronouncement 06.01.2020**

ORDER

PER K. NARASIMHA CHARY, JM:

Challenging the order dated 24/05/2017 in appeal No. 10056/16-17 passed by the learned Commissioner of Income Tax (Appeals)-19, New Delhi ("Ld. CIT(A)"), for the assessment year 2013-14, in the case of M/s Fish Poultry and Egg Marketing Committee ("the assessee"), Revenue preferred this appeal challenging the exemption allowed by Ld. CIT(A) under section 10 (26AAB) of the Income Tax Act, 1961 (for short "the Act").

2. Brief facts of the case are that the assessee is a marketing committee established under Delhi Agricultural Produce Marketing (Regulation) Act, 1976 ("DAPM Act") and entrusted with the duty of supervising, controlling and providing facilities to the traders operating in the committee premises. Assessee regulates the marketing of fish, poultry and eggs and the raw material was brought by the wholesalers and after refining the same, namely, after checking, cleaning, sorting/segregating, chopping, preserving, packing, the same is supplied to various buyers by the traders who are operating in the committee area and have been allotted space to do business.

3. For the assessment year 2013-14, it had filed its return of income on 01.10.2013 declaring a loss of Rs. 3,00,343/-after claiming deduction under section 10(26AAB) of the Act to the tune of Rs.1,24,23,822/-. Contention of the assessee before the learned Assessing Officer was that the produce marketed by it is covered in the schedule with reference to section 119 of DAPM Act. Learned Assessing Officer, however, held that the provisions of Income Tax Act are applied in its own sense and any Regulation or Rule by an estate border government to include certain items in the schedule of articles or things to be marketed by any Marketing Board does not render the provisions of Income Tax Act ineffective. He, therefore, disallowed the deduction under section 10(26AAB) of the Act to the tune of Rs.1,24,23,822/-and added the unverifiable expenses to the tune of Rs.59,38,917/-and concluded the assessment by order dated 29/02/2016 at Rs. 1,83,62,740/-.

4. Aggrieved by such an addition, assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A), by way of impugned order, observed that the

DAPM Act does not restrict Constitution of committee for marketing agricultural product; that it has within its scope various other commodities like decorative plants, production of honey and silk; that also includes the marketing of forest products which otherwise do not fall within the definition of agriculture; the DPM Act, therefore, has given a very wide meaning to the words 'agricultural produce'; that apparently, the Income Tax Act has also imported the words agricultural produce from the DPM Act to cover APMC notified under it to provide the benefit to all APMCs provided in the DPM Act or similar Acts in other states; and that it could have been the intention of the Act to leave out to some of the committees, notified under the DPM Act especially when all the committees were rendering similar services in respect of various products.

5. He further observed that the words agricultural produce, used in connection with APMC connotes a very wide meaning bringing within its purview large gamut of commodities besides agricultural products; that since the income accrues to the APMC's from pursuing to these activities, the Income Tax Act also perceives a wider meaning by referring to the notified committees; and that, therefore, on a reading of the provisions of DPM Act in the light of section 10(26AAB) of the Act, the assessee is entitled to claim exemption under section 10(26AAB) of the Act. Revenue is, therefore, aggrieved by such a finding of the Ld. CIT(A) and preferred this appeal.

6. At the outset it is submitted by the Ld. AR that a similar question had arisen in assessee's own case for the assessment years 2009-10, 2010-11 and 2012-13 and the Revenue had preferred appeals for such assessment years in ITA Nos. 4187 to 4189 /Del/ 2016 which, a coordinate

Bench of this Tribunal by order dated 31/5/2019 dismissed by upholding the view taken by Ld. CIT(A). Ld. DR does not contradict this fact. A copy of order dated 31/5/2019 in ITA Nos. 4187 to 4189 /Del/ 2016 is produced.

7. We have gone through the record in the light of the submissions made by the Ld. AR. Under identical circumstances, in assessee's own case for the assessment years 2009-10, 2010-11 and 2012-13 the Tribunal upheld the contentions of the assessee and dismissed the Revenue's appeal and endorsed the view taken by the Ld. CIT(A) which is similar to the one taken for this assessment year also. Since the facts and issue is squarely covered by the order of the Tribunal for the earlier assessment years, which remain undisturbed, we are of the considered opinion that there are no compelling reasons to take a different view for this year. We, therefore, while respectfully following such view taken by the Tribunal for the earlier assessment years, hold that the assessee is entitled to the deduction under section 10(26AAB) of the Act. We consequently hold that the grounds of appeal are devoid of any merits and are liable to be dismissed.

8. In the result appeal of the Revenue is dismissed.

Order pronounced in the Open Court on 6th January, 2020.

Sd/-
(ANADEE NATH MISHRA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 06/01/2020

aks