

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI**

**BEFORE  
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No. 1538/Del/2020  
Asstt. Year : 2018-19

Philco Exports Pvt. Ltd. S-125, GK Part-2, New Delhi – 110 048 PAN AAACP3961E	Vs.	DCIT, CPC Bangalore
(Appellant)		(Respondent)

Assessee by:	None
Department by :	Shri Om Prakash, Sr. DR
Date of Hearing	23.08.2022
Date of pronouncement	14.11.2022

**ORDER**

This is an appeal by the assessee against order dated 10.08.2020 of learned Commissioner of Income Tax (Appeals) 7, Delhi 7 Delhi pertaining to assessment year 2018-19.

2. When the appeal was called for hearing, none appeared on behalf of the assessee, despite proper service of hearing notice evidenced by the postal acknowledgment kept on record. In view of the aforesaid, I proceed to dispose of the appeal ex parte qua the assessee after hearing the Learned Departmental Representative and based on material available on record. The

dispute in the present appeal is confined to addition of an amount of Rs. 6,34,205/-, which according to the assessee is exempt under section 10(34) of the Income Tax Act 1961.

3. Briefly, the facts are the assessee is a resident corporate entity. While processing the return of income filed by the assessee for the impugned assessment year, the Centralised Processing Centre (CPC), Bangalore added back an amount of Rs. 6,34,205/- as income from business and profession. Against the addition so made, the assessee preferred an appeal before learned Commissioner (Appeals). However, Learned Commissioner (Appeals) upheld the addition made by the CPC.

4. I have considered the submissions of learned Departmental Representative and perused the material on record. As could be seen from the impugned order of learned Commissioner (Appeals), though, before him the assessee had contended that the amount of Rs. 6,34,205/- represents dividend income and exempt under section 10(34) of the Act, however, assessee's claim was rejected on the ground that there is inconsistency in the claim of exempt income as per the information given in the return of income. In my view, if a particular item of income is otherwise exempt from taxation under section 10 of the Act, it cannot be brought to tax.

Therefore, it is very much necessary to examine the nature and character of Rs. 6,34,205/- added as business income. In case, the assessee is able to establish its claim that the aforesaid amount represents dividend income, which is exempt under section 10(34) of the Act, then no addition can be made. In view of the aforesaid, I restore the matter to the file of the Assessing Officer for examining assessee's claim afresh. The assessee is directed to furnish the requisite documentary evidences to establish its claim that the amount in dispute represents dividend income which is otherwise exempt under section 10(34) of the Act. Accordingly, the issue is restored back to the Assessing Officer. Needless to mention, the Assessing Officer must provide reasonable opportunity of being heard to the assessee before deciding the issue.

5. In the result the appeal is allowed for statistical purposes.

**Order pronounced in the open court on 14<sup>th</sup>  
November, 2022.**

**sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER**

Dated: 14/11/2022

***Veena***

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	