

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

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 1762 /DEL/2022
[Assessment Year: 2020-21]**

Goodrich Carbohydrates Ltd., 904-907, GT ITL, Northex Towers, A-9, Netaji Subhash Place, Pitampura, Delhi-110034. PAN- AADCG3905G	<u>Vs</u>	ADIT, CPC Bengaluru
APPELLANT		RESPONDENT
Assessee represented by	Sh. Gurjeet Singh, CA	
Department represented by	Sh. Rajendra Jha, Sr. DR	
Date of hearing	07.06.2023	
Date of pronouncement	25.07.2023	

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against the order dated 17.06.2022 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred as “learned First Appellate Authority” or in short “FAA”) in Appeal no. NFAC/2019-20/10053671, for the assessment year

2020-21, arising out of the intimation of assessment dated 30.12.2021 u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the ADIT, CPC, Bengaluru (hereinafter referred in short as “Ld. AO”).

2. Heard and perused the record.

3. The assessee had filed return of income on 15.02.2021. An intimation of assessment u/s 143(1) of the Act dated 30.12.2021 was passed by CPC (learned AO) and two disallowances were made, out of which one arising out of addition of exempt income in respect of sale of fixed assets, as computed under Companies Act, 2013 vis a vis sale consideration reduced while computing depreciation in accordance with Income-tax Act, 1961 to the extent of Rs. 17,51,277/- is under challenge and it will be appropriate to reproduce the findings of learned CIT(Appeals) in this regard in paragraph 9.3:

“9.3. I have verified the facts of the case, intimation u/s 143(1) of the Act dt. 30-12-2021, copy of Return of Income filed by the appellant for the Asst. Year 2020-21 and also considered the written submission advanced by the appellant in respect of this ground. After verification, the appellant’s contentions on the issue are found to be not correct and not acceptable in view of the facts and defaults of the appellant as narrated under:

*On verification of Return of Income filed by the appellant, it is noticed that on **Page No. 20** of Return of Income, under ‘Schedule **Part-A - P and L - Profit and Loss Account for financial year 2019-20**’, at column.No. 14(v)- Other income - Profit on sale of fixed assets the appellant had credited Rs. 17,51,277/-. Similarly, on page 37 under **schedule-BP - Computation of***

*income from business or profession, at SI.No. 5(c)(1) Income credited to Profit and Loss account (included in 1) which is exempt - Profit on Sale of Fixed Asset, the appellant had shown it as Rs. 17,51,277/- and thus deducted from 'Income from Business or Profession'. However, as per **Schedule-DCG - Deemed Capital Gain on sale of depreciable** assets on page No. 43 & 44, the appellant did not fill up the relevant details of capital gain accrued on sale of any depreciable assets which is an inconsistent entry to that of information furnished in relevant schedules of Profit and Loss account and 'income from Business or Profession'. Moreover, the appellant had also not filled up the **schedule-EI - Details of Exempt Income (Income not to be included in Total Income or not chargeable to tax)** on page 63 of Return without furnishing the details of exempt income, if any, (which is also an inconsistent entry). ...*

As per Schedule Part-B - TI Computation of Total Income on page No. 107 of RoI also, the appellant took in the income from business or profession at Rs. 9,33,32,090/- which is net of all expenditure claimed and deductions (including depreciation) allowable under various sections of the Act out of which the said exempt of Rs.17,51,277/- was also deducted. Hence, there is inconsistency in the schedules filed in the return of income with that of computation of total income. Hence, adjustment u/s 143(1) was made with regard to this issue. In view of these facts, above. I do not find any reason to interfere with the order of the Assessing officer in respect of this issue and the A.O.'s action of disallowance of Rs.17,51,277/- is upheld. Accordingly, this ground of appeal is dismissed.”

4. After taking into consideration the material on record it comes up that as the amount relates to profit on sale of fixed assets, which assessee has computed under the Companies Act and for the financial statement to be prepared in accordance with accounting principles and for the purpose of Companies Act. However, as per the test of present Act the sale proceeds as arising from the sale of depreciable capital assets were reduced from the fixed asset schedule while filing the return.

The learned AO although considered the same to be exempt income, had not accepted it while calculating total exempt income. Learned AR has pointed out, on the basis of intimation, a copy of which is available on record at pages 20 & 21 of the paper book, that the assessee's claim of profit on sale of fixed assets was processed. However, the same was not allowed.

5. Learned AR has submitted that the same was technical glitch. In this context if the finding of learned CIT(Appeals) are considered, he has however sustained the addition on the basis that in the various parts of the return of income there were inconsistencies and relevant details of capital gain accrued on sale of depreciable asset was not mentioned.

6. The Bench is of the considered opinion that in an appeal before learned CIT(Appeals) arising out of intimation u/s 143(1), he was supposed to take note of the fact, as to if an addition can be made u/s 143(1). He has sustained the addition on the basis of the fact that in the deemed capital gain schedule relevant details are not provided. The Bench is of the considered view that the issue requires to be restored to the file of AO to verify if the assessee has provided relevant information in the return and the addition was made on account of technical glitch.

The appeal is allowed for statistical purposes with direction to learned AO to pass a fresh order on the basis of aforesaid observations.

Order pronounced in open court on 25.07.2023.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI