

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

**BEFORE,  
SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.326/Del/2021  
(ASSESSMENT YEAR 2018-19)**

M/s Rishabh Farms & Industries Private Limited B-1/12, Vasant Vihar New Delhi-110 057 PAN-AAACR 6262Q	Vs.	DCIT Circle-19(1) New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Mr. V.K. Garg, Advocate and Mr. Praveen Kumar, CA
Respondent by	Mr. Raghunath, Sr. DR

Date of Hearing	01/05/2023
Date of Pronouncement	27/07/2023

**ORDER**

**PER M. BALAGANESH AM:**

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-Delhi-7, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.CIT(A), Delhi-07/10494/2019-20 dated 10/08/2020 against the order passed by Deputy Commissioner of Income Tax, CPC, Bangalore (hereinafter

referred to as the 'Ld. AO') u/s 143(1) of the Income Tax Act (hereinafter referred to as 'the Act') on 17/10/2019 for the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal:

*"1. That on the facts and law involved the Ld. Commissioner of Income Tax (Appeals) [Ld. CIT(A) erred in confirming the addition of Rs 18,06,660/- made by Ld. Assessing officer [Ld. AO] under the head "Business income being profit on sale of Plant & Machinery etc as per books as reduced by the assessee from its business income and sale consideration separately adjusted against WDV of depreciable block of plant & machinery as per the provisions of section 43(6)(c) of the Act. Such erroneous addition confirmed by Ld. CIT(A) deserves to be deleted in toto.*

*1.1 That the above addition as confirmed by the Ld. CIT(A) is based on erroneous views and / or non-appreciation of the facts and law involved and without considering the submissions and material on record. As such too the addition is unwarranted and not capable of being sustained.*

*2. That the assessment as made and the order of the Ld. CIT(A) are against law and facts of the case involved.*

*3. That the grounds of appeal as herein are without prejudice to each other.*

*4. That the appellant respectfully craves leave to add, amend, alter and/or forego any ground(s) or before the time of hearing."*

3. At the outset, there is a delay in filing of appeal by the assessee by 168 days. We find that this appeal has been filed on 26/03/2021 and the Ld. CIT(A)'s order was passed on 10/08/2020. Both these dates fall during the Covid-19 relaxation granted by the Hon'ble Supreme Court, the delay in filing of the appeal is hereby

condoned and appeal of the assessee is hereby admitted for adjudication.

3. The issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in confirming the addition of Rs.18,06,660/- by treating the profit on sale of Plant and Machinery as business income in the facts and circumstances of the instant case.

4. We have heard the rival submissions and perused the materials available on record. The return of income for AY 2018-19 was filed on 30/10/2018 declaring Nil income. The return of income was processed u/s 143(1) of the Act by the Ld. CPC, Bengaluru vide intimation dated 17/10/2019. In the said intimation, a sum of Rs.18,06,660/- on sale of Plant and Machinery as per books of account was added to the business income. This sum represents profit on sale of depreciable Plant and Machinery and the same was already included in the Profit & Loss Account. We have gone through the audited financial statements for the year ended 31/03/2018, wherein this sum is duly reflected in other income in Note No.21 as profit on sale of Plant and Machinery. This sum of Rs.18,06,660/- was reduced from the computation of

income in view of the fact that the entire sale consideration of Rs.54,58,170/- was reduced from the block of Plant and Machinery in the depreciation schedule prepared u/s 32 of the Act and on the reduced value thereon from the Written Down Value (WDV), and Additions thereon, depreciation has been claimed by the assessee. This fact is very much evident from Depreciation on Plant and Machinery (DPM) enclosed in page 45 of Income Tax Return itself. What is reflected in the P&L Account is the profit on sale of plant and machinery as per books i.e. as per Companies Act. Since, the rate of depreciation as per Companies Act is different from the rate prescribed under Income Tax Rules read with Income Tax Act, the Written Down Value (WDV) as per Income Tax Act would always be different with WDV as per Companies Act. This fact is not appreciated either by the CPC while processing the return or by the Ld. CIT(A) while adjudicating the appeal. Making an addition for the profit on sale of plant and machinery as per books would only result in double addition by the assessee i.e., on the one hand the assessee has claimed depreciation u/s 32 of the Act on the reduced value and on the other hand , the profit on sale of plant and machinery as per books getting added to business income.

5. Moreover, we find that a show cause notice was issued by the Ld. CPC to the assessee in this regard. The assessee had replied before the Ld. CPC, which is evident from page 28 of the PB. Despite explaining the facts, the Ld. CPC proceeded to make the adjustment as proposed in the show cause notice. Hence, we have no hesitation in directing the Ld. AO to delete this sum of Rs.18,06,660/- from business income. Accordingly, ground raised by the assessee is allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27<sup>th</sup> July, 2023.

Sd/-

Sd/-

**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 27/07/2023

*Pk/sps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

