

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
(DELHI BENCH 'A' : NEW DELHI)  
BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 5365/Del/2019  
(Assessment Year : 2011-12)**

|   |     |  |
|---|-----|--|
| Asstt. Commissioner of<br>Income Tax,<br>Circle, Karnal | Vs. | M/s. Best Foods Limited,<br>C/o. R.C.Rai & Associates, 203,<br>Akash Deep Building, 26A,<br>Barakhamba Road, New Delhi<br>PAN : AACCB2825P |
| <b>(APPELLANT)</b>                                      |     | <b>(RESPONDENT)</b>  |

|             |                                 |
|-------------|---------------------------------|
| Revenue by  | Sh. P. Praveen Sidharth, CIT DR |
| Assessee by | None                            |

|                        |            |
|------------------------|------------|
| Date of hearing:       | 21.08.2023 |
| Date of Pronouncement: | 11.10.2023 |

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The appeal has been preferred by the Revenue against the order dated 31.03.2019 of CIT(A)-3, Gurgaon (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. 418/ CIT(A)-3/GGN/2016-17 arising out of an appeal before it against the order dated 30.01.2018 passed u/s 271AAA of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Central Circle, Karnal (hereinafter referred as the Ld. AO).

2. Non-appeared for the assessee. The record shows after institution of the assessee, none has appeared while notices have been repeatedly issued. The Bench has also directed to issue notices through department and report of service has been filed. No more opportunity is justifiable.

3. Heard. Ld. DR has supported the findings of Ld. AO.

4. The issue revolves around the fact that the search & seizure operation was conducted at the residential as well as business premises of M/s. Best Foods group of cases on 23.11.2010. In the statement, Sh. Dinesh Gupta, MD of the company had admitted Rs. 44 crores are unaccounted income of group which was voluntarily offered as additional income however, Ld. AO alleged assessee has shown the surrendered income of Rs. 44 crores as income from other sources. Accordingly, issued notice u/s 271AAA of the Act. Ld. AO was not satisfied with the explanation of source and manner of earning the income concluded that assessee has not been able to substantiate the same for the purpose of Section 271AAA and imposed the penalty. Ld. CIT(A) has deleted the same on the basis of fact that in the quantum appeal, the Tribunal in appeal no. 1185/Del/2014 has deleted the addition.

3. The operative part of the judgment in the case of assessee from the Tribunal is reproduced in the order of ld. CIT(A) and it will be relevant to reproduce the same as below ;

*“viii. The careful reading of this letter which was offered for disclosure of additional income leaves no doubt that the assessee has offered additional income of group. Further the perusal of documents place at Page Nos. 56 & 57 of the Paper Book of assessee reveals that various advances were given for the purchase of paddy in the month of April, 2010 to July 2010 i.e. in the financial year 2010-11, the relevant assessment year 2011-12. The*

*letter dated 24.11.2010 submitted by the assessee duly signed by Managing Director to the Joint Director of Income Tax Investigation is in continuation of search and duly accepted by Revenue. The JDIT (Inv.) has not raised any objection about the nature of income disclosed by the assessee. The Assessing Officer and Ld. CIT(Appeals) have not brought any material on record to substantiate that the assessee has earned any income from other sources. This is admitted fact that the assessee is eligible for deduction u/s 80IB, The contention of the Ld. AR of the assessee that the amount disclosed during the search in cash sales and included in the Books of Accounts and accepted by Assessing Officer and ld. CIT(Appeals) has not been contravened by income Tax Authorities below nor by Ld. CIT(DR) before us. In view of above undisputed facts of the case, the assessee has established beyond doubt that the additional income offered during the search is business income and linked with the profit of Industrial Undertaking.”*

4. Giving thoughtful consideration to the aforesaid, the Bench is of considered view that as in the quantum appeal, a co-ordinate Bench has giving a finding that the amounts disclosed during the search were part of the cash sales and included in the books of accounts. The same substantiates the manner of earning alleged undisclosed income and thus Ld. CIT(A) was not in error deleting the penalty imposed u/s 271AAA. The ground raised in the appeal have no substance. **The appeal of Revenue is dismissed.**

**Order pronounced in the open court on 11<sup>th</sup> October, 2023.**

**Sd/-  
(G.S.PANNU)  
PRESIDENT**

**Sd/-  
(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

*Date:-11.10.2023*

**\*Binita, SR.P.S\***

Copy forwarded to:

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

AR, ITAT  
New Delhi