

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'G' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**ITA No.1471/Del/2023  
(Assessment Year :2018-19)**

Savannah Seeds Private Ltd.,  
PH-1A, 10<sup>th</sup> Floor, Tower – A,  
Emaa Digital Greens, Golf Course,  
Gurgaon – 122 009 (Haryana)

vs. DCIT, Circle 22 (2),  
Delhi.

**(PAN : AAOCS9422M)**

**(APPELLANT)**

**(RESPONDENT)**

ASSEESSEE BY : Shri Aakash Uppal, CA  
REVENUE BY : Shri Anuj Garg, Sr. DR

Date of Hearing : 14.12.2023  
Date of Order : 19.12.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal filed by the assessee is directed against the order of Id.  
CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated  
15.03.2023 for the Assessment Year 2018-19.

2. Grounds of appeal taken by the assessee are as under :-

1. On the facts and circumstances of the case, and in law,  
the Assessment Order passed by National e-Assessment Centre  
(NeAC) and National Faceless Appeal Centre ('NF AC')  
is bad in law.

2. That NeAC and NFAC grossly erred on facts and in law in making disallowance of weighted deduction of expenditure on scientific research amounting to INR 1,94,43,483 under section 35(2AB) of the Act on the basis that the appellant has failed to submit Form 3CL issued by Department of Scientific and Industrial Research ('DSIR'), certifying the amount of expenses incurred by the appellant on research activities.

3. That the NFAC grossly erred in law by upholding the disallowance made by NeAC on account of non-submission of Form 3CL, without appreciating that assessment proceedings were concluded 53 days before time barring date, while Form 3CL was duly issued within such period by DSIR.

4. The NeAC and NFAC failed to appreciate that delay in issue of Form 3CL by DSIR was owing to surge in Covid-19 cases, which further lead to delay on appellant's part to submit Form 3CL to income tax office during the course of assessment proceedings.

5. Without prejudice to the above, the NeAC and NFAC grossly erred on facts and in law in not appreciating that the appellant had itself disallowed an amount of INR 1,29,62,322 in the income-tax return and disallowance of INR 1,94,43,483 amounts to double disallowance to the extent of INR 1,29,62,322.”

3. Brief facts of the case are that in this case, Assessing Officer made disallowance of deduction under section 35(2AB) of the Income-tax Act, 1961 (for short 'the Act') amounting to Rs.1,94,43,483/- and the reason was absence of Form 3CL which was not submitted by the assessee. The relevant portion of the assessment order is as under :-

“Disallowance of deduction u/s 35(2AB) of the IT Act: On perusal of the records, it is seen that the assessee has claimed expenses(deduction) on in house R&D u/s 35(2AB) of the IT Act amounting to Rs.1,29,62,322/- in the computation of income. Subsequently, the assessee has claimed deduction

amounting to Rs. 1,94,43,483/-u/s 35(2)AB of the IT Act. The assessee vide reply 04.01.2021 submitted Form 3CM, Form 3CK and further stated that the copy of form 3CL is pending with DSIR department and will be uploaded by the end of January 2021. In the interest of natural justice the assessee was allowed the stipulated period as requested however the assessee failed to furnish the same till date. The assessee uploaded form 3CM and Form 3CK however Form 3CL has not been submitted in support of his claim.

4.2 Since the assessee did not furnish the complete appropriate details/documents pertaining to claiming of deduction u/s 35(2AB) of the IT Act, 1961 in spite of giving sufficient time, the deduction claimed of Rs.1,94,43,483/- (actual expenses i.e 1,29,62,322/-) is hereby disallowed and added back to the total income of the assessee.”

4. Against the above order, assessee appealed before the Id. CIT (A) who confirmed the addition.

5. Against this order, assessee has filed appeal before the ITAT. We have heard both the parties and perused the records.

6. Ld. Counsel of the assessee contended that the assessment order in this case was passed on 05.02.2021. He pleaded that the due date for completion of assessment was 31.03.2021. He further informed that Form 3CL was duly obtained on 25.02.2021. Ld. Counsel submitted that Form 3CL was presented before the Id. CIT (A) who still confirmed the addition.

7. Per contra, Id. DR for the Revenue relied upon the orders of the authorities below.

8. Upon careful consideration, we find that the disallowance in this case has solely been made on account of absence of Form 3CL issued by the DSIR. AO completed the assessment on 05.02.2021. Form 3CL was duly issued by DSIR on 25.02.2021. In the interest of justice, in our considered opinion, this issue needs to be remitted to the file of AO. AO shall consider the Form 3CL being submitted by the assessee. If the same is in order the AO will provide the necessary relief/deduction. Needless to add, assessee should be provided an opportunity of being heard.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open court on this 19<sup>th</sup> day of December, 2023.**

**Sd/-  
(CHALLA NAGENDRA PRASAD)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 19<sup>th</sup> day of December, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**