

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

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
ITA No.1203/Del/2020, A.Y.2016-17**

Premier Seeds Corporation 133, Indira Market, Old Subji Mandi, Delhi PAN-AAAFP8814B	Vs.	ACIT, Circle-36(1), New Delhi
(Appellant)		(Respondent)
Appellant by	Sh. Naman Singhal, Adv. & Shri Aman Singhal, CA	
Respondent by	Sh. Vivek Vardhan, Sr. DR	
Date of Hearing	10/01/2024	
Date of Pronouncement	08/02/2024	

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal is filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)-12, New Delhi ["Ld. CIT(A)", for short], dated 31/10/2019 for the Assessment Year 2016-17. Grounds of the assessee is as under:-

That on the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in:

1) dismissing the appeal of the assessee without providing reasonable, proper and due opportunity of hearing;

2) confirming the addition of Rs. 1,75,62,605/-made by the Assessing Officer on account of alleged unaccounted sales. The above actions being arbitrary, fallacious, unlawful and untenables must be quashed with directions for appropriate relief.”

2. Brief facts of the case are that the assessee as mentioned in the assessment order are that, the Assessee is a partnership firm in trading of seeds. A survey u/s 133A of the Income Tax Act, 1961 ('Act' for short) was conducted on 23.02.2016 at different business places of the assessee. During the course of survey proceedings various discrepancies were noticed by the survey team. When assessee was confronted with the discrepancies/ papers, the assessee surrendered an amount of Rs.5,00,02,588/- for taxation on different counts as under:-

(1) Excess Stock	Rs. 2,62,67,153/-
(ii) Commission Income	Rs. 1,72,830/-
(iii) Unaccounted sales	Rs. 1,75,62,605/-
(iv) Miscellaneous	<u>Rs. 60,00,000/-</u>
Total	Rs.5,00,02,588/-

Thereafter, return of income was filed on 17.10.2016 at income of Rs. 3,98,77,130/- by the assessee. The case was picked for compulsory scrutiny and notice u/s 143(2) of the Act was issued on 20.09.2017 which was duly served upon the assessee. As per P&L account assessee has shown sales of Rs 59,87,13,021/- on which

gross profit has been shown at Rs. 5,88,65,207/- and net profit at Rs.3,42,33,322/-. In the Assessee's trading accounts, Assessee had shown the amount of surrendered excess stock of Rs.2,62,67,153/-. The amount of Rs.1,72,830/- on account of surrendered commission income has been shown by the assessee in profit and loss account. Further, assessee has shown miscellaneous income of Rs. 60,00,000/- in computation of income. The assessee was required to explain the reply why the income of Rs.1,75,62,605/- surrendered due to unaccounted sales during the survey has not been included anywhere i.e. either in Trading and Profit and Loss a/c or in computation of income. The Assessee was asked to explain the same. The Ld. A.O. without satisfying the explanation provided by the Assessee, the Ld. A.O. made addition of surrendered unaccounted transactions Rs.1,75,62,605/- to the income of the Assessee.

3. Aggrieved by the assessment order dated 28/12/2018, the assessee preferred an Appeal before the CIT(A), the assessee did not appear before the CIT(A) and has not produced any document in support of his grounds of appeal. The additions made by the A.O.

has been confirmed by the CIT(A) vide order dated 31/10/2019. As against the order of the Ld. CIT(A), the assessee preferred the present Appeal on the grounds mentioned above.

4. In Ground No. 1 it has been pleaded that sufficient opportunity has not been given to the assessee while dismissing the Appeal filed by the assessee. It is found that the Ld. CIT(A) while adjudicating the appeal, on 16.07.2019, adjourned the hearing at the adjournment request of Assessee vide letter sent on Dak counter. Further the Ld. CIT(A) has issued three more notices but the assessee has not complied any of the notices. Therefore, the Ld. CIT(A) dismissed the appeal filed by the Assessee as the assessee has given no details or evidences to support its ground of appeal. Considering the fact that the Assessee has not appeared and put forth his case by providing details of evidence in support of grounds of appeal and in the interest of justice we deem it fit to restore the appeal to the file of the Ld. CIT(A) for *de-novo* adjudication of the issues on merit.

5. Thus, the Ground No.1 of the Assessee is allowed for statistical purposes and the issue involved in the present appeal are restored to the file of the Ld. CIT(A) for de-novo adjudication with a direction to the Assessee to fully cooperate in the appeal proceedings by producing the documents and details in support of the Grounds of appeal raised before the Ld. CIT(A).

6. Since, we have remanded the matter to the file of the CIT(A) for deciding the issue on merits, the Ground No.2 of the Assessee requires no adjudication. In the result, appeal of the Assessee is partly allowed for statistical purposes.

Order pronounced in open Court on 08th February, 2024.

Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Dated: 08/02/2024
Binita/R.N, Sr. PS

Copy forwarded to:

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

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI

