

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'A', LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.184/Lkw/2023
Assessment year:2013-14

Income Tax Officer, Gonda.	Vs.	Krishi Utpadan Mandi Samiti, Balrampur. PAN:AABTK1219Q
(Appellant)		(Respondent)

Appellant by	Ms. Shweta Mittal, C.A.
Respondent by	Shri Sanjeev Krishna Sharma, Addl. CIT (D.R.)

ORDER

PER SUBHASH MALGURIA:J.M.

(A) Appeal vide I.T.A. No.184/Lkw/2023 has been filed by the Revenue for assessment year 2013-14 against impugned appellate order dated 19/07/2022 of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. The grounds of appeal are as under:

"Whether the learned CIT(A) has erred on facts and in law in allowing exemption u/s 10(26(AAB)) of the I.T. Act, 1961 without claiming exemption under the aforesaid section in ITR by assessee without giving opportunity and calling for remand report from the Assessing Officer u/s 250(4) of the IT Act read with Rule 46A(3) of the I.R. Rules, 1962."

(B) The appeal filed by Revenue is beyond the time limit prescribed u/s 253(3) of the Income Tax Act, 1961 ("IT Act" for short). A petition vide letter dated 13/06/2023 has been filed by Revenue seeking condonation of delay and explaining the reason for delay. At the time of hearing before us, learned A.R. of the assessee submitted that the assessee had no objection if the delay is condoned. Accordingly, the delay in filing of this appeal is condoned and the appeal is admitted for hearing.

(C) In this case the return filed by the assessee was processed u/s 143(1) of the IT Act wherein the assessee's income was determined at Rs.1,75,00,650/- as against returned income of NIL. The addition was made u/s 143(1) of the IT Act by disallowing assessee's claim for relief under Clause 26AAB of Section 10 of the IT Act. Vide impugned appellate order dated 19/07/2022, the learned CIT(A) directed the Assessing Officer to allow the assessee's claim u/s 10(26AAB) of the Act after verifying the conditions laid down in section 10(26AAB) of the IT Act. The present appeal has been filed by Revenue against the aforesaid impugned appellate order.

(D) At the time of hearing before us, it was observed, on perusal of Form-36 in which the appeal has been filed, that the total tax effect is stated to be Rs.52,32,601/-. The aforesaid amount of Rs.52,32,601/- is below the minimum limit of Rs.60,00,000/-, as instructed by Central Board of Direct Taxes, for filing the appeal in Income Tax Appellate Tribunal against order of the learned CIT(A). Representatives of both sides, the learned Sr. D.R. for Revenue and the learned A.R. for the assessee were in agreement that the tax effect being below the minimum prescribed limit of Rs.60,00,000/-, this appeal is not maintainable and should be dismissed.

(D.1) In view of foregoing and as representatives of both sides are in agreement on this, this appeal is dismissed in limine without admitting the appeal and without going into the merits of the case.

(E) In the result, the appeal filed by the Revenue is dismissed as not maintainable.

(Order pronounced in the open court on 16/10/2024)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:16/10/2024
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow

Asstt. Registrar