

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA No.91/Agr/2023
Assessment Year: 2018-19

Pradeep Upasana Agro & Constructions Pvt. Ltd., Bhoalanpur, Chirpura Bhojpur, Baghar, Farrukhabad.	Vs.	PCIT-1, Agra
PAN : AAICIP7024J		
(Appellant)		(Respondent)

Assessee by	Sh. Amit Bansal, C.A.
Department by	Dr. Arun Kumar Yadav, CIT(DR)

Date of hearing	17.02.2025
Date of pronouncement	17.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment years 2018-19 arises against the Pr. Commissioner of Income Tax-1(in short, the "PCIT), Agra's order no. F.No. PCIT-1/Agra/Sec.263/PUACPL/2022-23 dated 21.03.2023, involving proceedings under section 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.
3. It next emerges during the course of hearing with the able assistance coming from the Revenue side represented by learned CIT(DR) Shri Arun

Kumar Yadav that the PCIT herein has exercised his section 263 revision jurisdiction so as to hold the Assessing Officer's section 143(3) regular assessment framed on 01.03.2021; as an erroneous one causing prejudice to the interest of revenue. Mr. Yadav vehemently argues that given the fact that the assessee had not proved its case as eligible for section 80IB(11A) deduction, it has been rightly termed as not eligible for the same, which was wrongly accepted by the Assessing Officer in his assessment forming subject matter of revision. He further quotes the tribunal's order in *Ridhi Agro Cold Care vs. ITO* dated 24.08.2021 (headed by one of us i.e. Judicial Member), that the issue already stands settled in the department's favour.

4. We have given our thoughtful consideration to the issue. We are of the considered view that given the fact that the assessee in fact duly carries out his business of cold storage, merely because it had given on rent the corresponding cold storage facility to various growers to store their respective produce, same would indeed be entitled to be treated as under clinching head "preservation" incorporated in the corresponding statutory provisions u/s. 80IB(11A) of the Act. So far as Revenue's reliance of tribunal's above order is concerned, we make it clear that the said earlier bench had not examined the issue from the perspective of "preservation" and therefore, it ceases to be a binding precedent in light of *CIT Vs. BR Constructions* (1993) 202 ITR 222 (AP). That being the case, we conclude

that once the assessee is held as engaged in the “preservation” of the eligible produce u/s. 80IB(11A), the learned PCIT could not have held it as not entitled for very deduction. We accordingly reverse the impugned section 263 revision directions in very terms.

5. This assessee’s appeal is allowed.

Order pronounced in the open court on 17.02.2025.

**Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated: 17.02.2025

*aks/-/Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra