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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 314/2024

PR. COMMISSIONER OF
INCOME TAX-1, DELHI .... Appellant
Through: Mr. Sanjay Kumar, Adv.

versus

FIELDFRESH FOODS PVT. LTD. .... Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **02.07.2024**

CM APPL. 36009/2024 (34 days delay in filing)

1. Bearing in mind the disclosures made, the delay of 34 days in filing the appeal is condoned.

2. Application stands disposed of.

ITA 314/2024

3. The Principal Commissioner impugns the order of the Income Tax Appellate Tribunal [**"Tribunal"**] dated 23 November 2023, and has proposed the following questions of law for our consideration:-

> "A. Whether on the facts on the circumstances of the case and in law, the Ld. ITAT has erred in deleting the addition of Rs.22,31,99,107/- made by AO on account of provision for purchase of finished goods ignoring that the provisions made by assessee was not ascertained liability and it was contingent in nature as the goods not were received during the year, shown as the goods shown in the balance sheet as transit in nature and the payment has not actually been made, therefore, not allowable expenses under Section 37 of the Act?
>
> B. Whether on the facts on the circumstances of the case and in law, the Ld. ITAT has erred in deleting the addition of

Rs.2,26,54,932/- made by AO on account of provisional expense ignoring that provision made by assessee was not ascertained liability and it was contingent in nature and the assessee has no given any reply for the allowability of this expense?"

4. We, however note, on a detailed analysis of the assessment order as framed, the Commissioner of Income Tax (Appeals) ["**CIT(A)**"] had while allowing the appeal observed as follows:-

> "**4.3.5** Thus, in light of the given facts it is clear that the said provision was infact payment for purchase of goods in transit whose entries were reversed in the beginning of the following year and the payments were made during F.Y. 2014-15 (A.Y. 2015-16). Since, the purchased goods were reflected as closing stock in the P&L Account (on the credit side) and in the balance sheet as goods in transit, these were infact ascertained and not contingent expenses. While, the goods were received, the bills were received later on. Hence, the claim of expense stands explained and proved, therefore allowable. Accordingly, the addition of Rs.22,31,99,107/- on account of unascertained provision stands **deleted**."

5. Before us it is not disputed that since both the debit and credit entries had been balanced out, the effect would be revenue neutral.

6. In that view of the matter, we find no substantial question which would merit consideration of this Court.

7. The appeal shall consequently stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 2, 2024/kk