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

\+ ITA 178/2024 & CM APPL. 15413/2024

PR. COMMISSIONER OF INCOME TAX-12 .....Appellant

Through: Mr. Sanjay Kumar, Sr. Standing Counsel with Ms. Monica Benjaminh, Jr. SC & Ms. Easha Kadian, Jr. SC.

versus

NATIONAL AGRICULTURAL CO-OPERATIVE MARKETING FEDERATION OF INDIA .....Respondent

Through: Mr. Satyen Sethi, Mr. Arta Trana Panda & Ms. Gargi Sethee, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 07.05.2025

1. The Revenue has filed the present appeal impugning an order dated 09.08.2023 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.3555/Del/2019 concerning Assessment Year [**AY**] 2014-15. The impugned order is a common order passed by the learned ITAT in ITA No.3555/Del/2019 for AY 2014-15; ITA No.3554/Del/2019 for AY 2012-13; ITA 3553/Del/2019 for AY 2011-12; and ITA No.3000/Del/2019 for AY 2011-12; whereas ITA No.3000/Del/2019 was preferred by the Assessee, the other three appeals were preferred by the Revenue.

2. As noted above, the present appeal arises out of the learned ITAT's decision in ITA No.3555/Del/2019 concerning AY 2014-15. The Revenue had preferred the said appeal against an order dated 31.01.2019 passed by the Commissioner of Income Tax (Appeals)-36 [**CIT(A)**]. The Revenue's

appeal pertained to the CIT(A)'s decision to delete the disallowance made by the Assessing Officer [**AO**] under Section 40(a)(i) of the Act in respect of interest payable to M/s Alimenta SA, Geneva. The AO had disallowed interest amounting to ₹10,14,57,482/- on the ground that no payment of such interest had been made to M/s Alimenta SA, Geneva.

3. The controversy arises from a dispute between the Assessee and M/s Alimenta SA, Geneva. The Assessee had entered into a contract dated 12.01.1980 to sell 5,000 metric tons [**MTs**] of HPS Groundnuts to M/s Alimenta SA, Geneva. The Assessee exported 1,900 metric tons of the said goods to M/s Alimenta SA Geneva but could not export the balance, as at that time the policy of the Government of India did not permit the same. Consequently, M/s Alimenta SA, Geneva raised a claim against the Assessee for breach of contract. The said dispute was the subject matter of arbitration proceedings between the said two parties. The arbitral proceedings culminated in an arbitral award in favour of M/s Alimenta SA, Geneva and against the Assessee. The proceedings for enforcement of the said award were instituted by M/s Alimenta SA, Geneva before this Court. The arbitral award was recognized and this Court issued an order dated 28.01.2000 directing the Assessee to pay the awarded amount in favour of M/s Alimenta SA Geneva, along with costs.

4. This Court is informed that the Assessee has appealed the said decision before the Supreme Court, where the matter is currently pending. According to the AO, the liability to pay interest to M/s Alimenta SA, Geneva had not been confirmed and, therefore, the interest booked in the books of accounts was disallowed. The AO has, in effect, treated the said liability as a contingent liability. However, the Assessee contended that the

amounts were crystallized and the mere pendency of proceedings before the Hon'ble Supreme Court did not preclude the Assessee from accounting for the said expenses.

5. Concededly, the said issue had also arisen in earlier years [AYs 2003-04, 2004-05, 2006-07 and 2007-08] and the learned ITAT [for AYs 2003-04, 2004-05] and CIT(A) [for AYs 2006-07, 2007-08] had deleted the said disallowance as made, in respect of the said assessment years. Accordingly, the CIT(A) following the said decisions rendered in respect of earlier assessment years allowed the Assessee's appeal in respect of AY 2014-15. It is also conceded that the controversy relating to AYs 2003-04, 2004-05, 2006-07 and 2007-08 had travelled to this Court and in ***NAFED v. CIT*****: (2017) 393 ITR 666 (Del)** assessment years 2001-02 and 2002-03, which relates to this Court, had upheld the decision of the learned ITAT, deleting the disallowance made by the AO on the aforesaid grounds. The Special Leave Petition preferred by the Revenue against the said decision was also dismissed **[*CIT v. NAFED*]: (2023) 459 ITR 593**.

6. In view of the above, the questions of law as projected by the Revenue in the present appeal are covered by the earlier decisions of this Court, as mentioned above. In our view, no substantial question of law arises for consideration of this Court in the present appeal.

7. The appeal is accordingly dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 07, 2025/ *'A'*

Click here to check corrigendum, if any