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

\+ ITA 836/2009

COMMISSIONER OF INCOME TAX .....Appellant

Through: Mr. Abhishek Maratha, SSC with Mr. Apoorv Agarwal, Mr. Viplav Acharya, JSCs.

versus

NATIONAL AGRICULTURAL CO-OP. MARKETING FEDERATION OF INDIA LTD .....Respondent

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

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **18.05.2026**

1. Following substantial questions of law had been framed in the instant appeal vide order dated 04.08.2014:-

"(i) Whether the Income Tax Appellate Tribunal was right in holding that interest due and payable under the award, operation of which had been stayed by the Supreme Court subject to furnishing of a bank guarantee, could be treated/allowed as revenue expenditure in the Profit and Loss Account of the respondent-assessee?

(ii) Whether the Income Tax Appellate Tribunal was right in holding that interest mentioned in question No.(i) above could be allowed as an expenditure, though it attracted disqualification

stipulated in Section 40 (a) (i) of the Income Tax Act, 1961, as the respondent-assessee had not deducted tax at source and deposited the same?

(iii) Whether the Income Tax Appellate Tribunal was right in holding that expenditure of Rs. 42,89,207/- as gifts, boarding, lodging, etc. purportedly incurred on the occasion of General Body Meeting should be allowed as business expenditure under Section 37 of the Income Tax Act, 1961?"

2. Mr. Satyen Sethi, learned counsel for the respondent, at the outset submitted that so far as first two questions are concerned, they don't require any adjudication as framed, because Hon'ble the Supreme Court vide its judgment dated 22.04.2020 rendered in the case of ***National Agricultural Co-operative Marketing Federation of India v. Alimenta S.A.*** reported in [2020] 7 SCR 789 has set aside the award of the learned Arbitrator and hence, the question of payment of interest would not arise.

3. Learned counsel argued that so far as third question is concerned, the same too has been decided by the Gujrat High Court in the case of ***Karjan Co-operative Cotton Sales Ginning & Pressing Society v. CIT*** reported in [1993] 199 ITR 17 (Guj).

4. Mr. Apoorv Agarwal, learned Junior Standing Counsel for the Department, argued that so far as the third question is concerned, the Tribunal has not correctly considered the facts and law.

5. In this regard, he submitted that the respondent-Society had incurred a huge expenditure to the tune of Rs. 42,89,207/- as gifts and boarding and lodging expenses on the occasion of General Body Meeting, which amount

cannot be claimed to be an expenditure incurred for the purpose of business of the Society. He argued that the expenses therefore, do not fall within the ambit of business expenditure as per Section 37 of the Income Tax Act, 1961.

6. He further submitted that the amount spent was excessive and thus, rightly been disallowed by the Assessing Officer.

7. Heard learned counsel for the parties.

8. So far as first two questions are concerned, Hon'ble the Supreme Court vide its judgment in the case of **National Agricultural Co-operative Marketing Federation of India** ***(supra)*** has set aside the basic award of additional compensation passed by the Arbitrator. Therefore, question of payment or provision for due interest does not arise.

9. Moving on to the third question, we are of the view that the Tribunal has committed no error of law in holding that the expenditure of Rs. 42,89,207/- as gift boarding and lodging etc. incurred on the occasion of the General Body Meeting was allowable as business expenditure.

10. We are of the considered opinion that regardless of the quantum of amount spent, General Body Meeting of a Company/Society is a statutory requirement and if any expenditure has been incurred on convening and in relation to meeting, it cannot be said that it is not a business expenditure.

11. According to us, business expenditure cannot be given restricted meaning and cannot be confined to only those expenditures which relate to purchase and sale or other directly relatable activities. Business expenditure as given under Section 37 of the Income Tax Act, 1961, has to be construed purposively and objectively.

12. If the society incurs certain expenditure to fulfill its statutory

obligation or even other business needs, the same are required to be allowed under the head of business expenditure.

13. The Assessing Officer cannot sit in the chair of Board of Directors or financial controller to contend that the amount spent was excessive. In any case, there is no denial of the fact that said amount was spent for the General Body Meeting of members. Giving small gifts and providing boarding and lodging to the Members/Employees and Directors etc. is a usual courtesy.

14. That apart, the decision of the Tribunal is essentially a determination of question of fact based on appreciation of available material. We, therefore, answer the question no. 3 above in affirmative, that is against the Revenue.

15. The appeal is, therefore, dismissed in totality.

16. We may add that since the Tribunal had allowed the interest the award so also consequential interest thereupon itself has been set aside by Hon'ble the Supreme Court vide its judgment rendered in **National Agricultural Co-operative Marketing Federation of India** ***(supra)***, the very issue of allowability of the interest shall be considered afresh, as the assessee is not supposed to or required to pay interest.

17. The Assessing Officer shall disallow the deduction of Rs.7,46,44,929/- on account of provision of interest made by the assessee.

18. The appeal is disposed of accordingly.

DINESH MEHTA, J.

VINOD KUMAR, J.

MAY 18, 2026/*nk*