



\$~27

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

+ **ITA 357/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX 4..... Appellant

Through:

versus

MS NATIONAL FERTILIZERS LTD

..... Respondent

Through:

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MS JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

**10.07.2023**

%

[Physical Hearing/Hybrid Hearing (as per request)]

**CM Appl.34159/2023**

1. Allowed, subject to just exceptions.

**CM Appl.34158/2023** [*Application filed on behalf of the appellant/revenue seeking condonation of delay of 498 days in filing the appeal*]

2. This is an application filed on behalf of the appellant/revenue seeking condonation of delay in filing the appeal.

3. The period of delay, according to the appellant/revenue is 498 days.

4. We are inclined to condone the delay, for the reasons recorded hereafter i.e., that no substantial question of law arises for our consideration.

5. The application is disposed of in the aforesaid terms.

**ITA 357/2023 &**

6. The above-captioned appeal concerns Assessment Year (AY) 2012-13.

7. This appeal assails the order dated 17.08.2021 passed by Income Tax

*ITA 357/2023*

*1/3*



Appellate Tribunal [in short, “the Tribunal”].

8. The appellant/revenue has proposed the following questions of law for our consideration:

“(i) *Whether in facts and circumstances of the case, the Hon’ble ITAT is legally justified in upholding deletion of disallowance of Rs.4,26,00,000/- on account of write off value of slow-moving stores and spares by resorting to change of accounting method from the accounting method consistently followed in earlier years by the assessee ignoring the provision of Section 145A of the Act without appreciating the facts that the assessee is not allowed to adopt any Accounting Standards of its choice as and when it deemed to be beneficial to the assessee?*

(ii) *Whether in facts and circumstances of the case, the Hon’ble ITAT is legally justified in upholding deletion of disallowance of Rs.2,32,750/- on account of additional depreciation claimed under Section 32(1)(iia) of the Act without considering the fact that the relevant amendment to the provision came into effect from 01.04.2013?*

(iii) *Whether the impugned order passed by Hon’ble ITAT is perverse both in law and on facts?”*

9. According to the counsels for the parties, the first question of law which is proposed, is covered by a decision dated 08.02.2017 rendered by a coordinate bench in a bunch of appeals, which includes ITA 783/2016, titled ***Pr. Commissioner of Income Tax-6 vs. National Fertilizers Ltd.***

9.1 Insofar as the second question of law is concerned, the same is covered by a decision dated 18.02.2019 rendered by a coordinate bench in ITA 1290/2018, titled ***Pr Commissioner of Income-Tax-6, New Delhi vs. NTPC Sail Power Co.Pvt. Ltd.***

10. Consequently, the third question of law, which relates to perversity does not arise in the instant appeal.

ITA 357/2023

2/3



11. Accordingly, we are of the view that no substantial question of law arises for our consideration.
12. The appeal and pending application are, accordingly, closed.

**RAJIV SHAKDHER, J**

**MANMEET PRITAM SINGH ARORA, J**

**JULY 10, 2023/pmc**

*Click here to check corrigendum, if any*

*ITA 357/2023*

*3/3*