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

+ **ITA 742/2023 & CM Nos.63842-43/2023**

PR. COMMISSIONER OF INCOME TAX-7 Appellant
Through: Mr Puneet Rai, Sr Standing Counsel
with Mr Ashvini Kumar and Mr
Rishabh Nangia, Standing Counsels.

versus

WAHID SANDHAR SUGARS LTD. Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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11.12.2023

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

CM No.63842/2023

1. Allowed, subject to just exceptions.

ITA 742/2023 & CM No.63843/2023 [Application filed on behalf of the
appellant seeking condonation of delay of 16 days in filing the appeal]

2. This appeal concerns Assessment Year (AY) 2015-16.

3. Via the instant appeal, the appellant/revenue seeks to assail the order dated 29.05.2023 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

4. A perusal of the assessment order dated 12.12.2017 shows that the Assessing Officer (AO) made an addition amounting to Rs.9,45,04,432/-.

This addition was made as the AO concluded that the consideration received

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by the respondent/assessee from sale of sugarcane seeds was not agricultural income. It is the revenue's case that the seeds were sold to farmers who, in turn, gave the sugarcane grown by them for being processed by the respondent/assessee.

5. The record discloses that the sugarcane seeds were sold by the respondent/assessee in the open market to farmers at the rates notified by the concerned statutory authority.

5.1 The record also shows, and something which the Commissioner of Income Tax (Appeals) [in short, "CIT(A)"] has recorded in his order dated 27.05.2019, that in the previous years, the subject transaction has been accepted by the appellant/revenue. The details in this regard are given in paragraph 4.9 of the CIT(A) order, which, for convenience, is set forth hereafter:

A.Y	Income Returned In INR (Loss)	Income Assessed In INR (Loss)	Agriculture Income as per ITR	Accepted Agriculture Income under assessment	Assessed under section
2011-12	(21,41,829)	(21,41,829)	2,18,80,000	2,18,80,000	143(3)
2012-13	(4,07,19,780)	(4,07,19,780)	2,98,34,098	2,98,34,098	143(1)
2013-14	NIL	NIL	5,22,46,970	5,22,46,970	143(3)
2014-15	NIL	NIL	8,18,62,303	8,18,62,303	143(1)

6. As is evident, for two AYs, i.e., AY 2011-12 and AY 2013-14, the respondent/assessee was subjected to scrutiny assessment and orders under



Section 143(3) of the Income Tax Act, 1961 [in short, “Act”] were passed.

6.1 The CIT(A) employed the consistency principle and, accordingly, deleted the addition made by the AO. The Tribunal has affirmed the view taken by the CIT(A).

7. Mr Puneet Rai, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that he would like to place the orders passed by the AO in the previous AYs before this court

7.1 Leave in that behalf is granted.

8. Accordingly, list the matter on 18.01.2024.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 11, 2023

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[Click here to check corrigendum, if any](#)