

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "E", MUMBAI**

**BEFORE SHRI SHAMIM YAHYA (AM) AND SHRI RAM LAL NEGI (JM)**

**ITA No. 4757/MUM/2013  
Assessment Year: 2001-02**

M/s Shirpur Gold Refinery Ltd., 5-A, Trishala Premises, 122, Sheikh Memos Street, Zaveri Bazar, Mumbai - 400002  PAN: AAACA4896K	<b>Vs.</b>	The DCIT-9(3), Aayakar Bhavan, Mumbai - 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : None

Revenue by : Shri V. Justin (DR)

Date of Hearing: 23/04/2018  
Date of Pronouncement: 20/07/2018

**ORDER**

**PER RAM LAL NEGI, JM**

This appeal has been filed by the assessee against the order dated 04.03.2013 passed by the Ld. Commissioner of Income Tax (Appeals)-20, Mumbai, for the assessment year 2001-02, whereby the Ld. CIT (A) has dismissed the appeal filed by the assessee against rectification order passed u/s 154 of the Income Tax Act, 1961 (for short 'the Act').

2. Brief facts of the case are that the assessee filed its return of income for the assessment year under consideration declaring the loss of Rs. 84,16,398/-. The AO disallowed administrative and financial expenses of Rs. 98,51,000/- However, while computing the total income disallowance was inadvertently restricted to the loss return of Rs. 84,16,398/- and determined the total income at Nil. In order to rectify the said mistake a notice u/s 154 was issued to the assessee by the AO with the direction to appear on a particular date.

However, on the said date the assessee sought adjournment and the hearing was re-fixed. Again on the date fixed for hearing none appeared on behalf of the assessee. Thereafter one more opportunity was given to the assessee to present its case but the assessee did not turn up. Ultimately, the AO rectified the mistake and determined the total income of the assessee at Rs. 8,99,908/-. Against the said order, the assessee preferred first appeal before the Ld. CIT (A)-20, Mumbai. The Ld. CIT (A) after hearing the assessee dismissed the appeal of the assessee and confirmed the order passed by the AO.

4. Aggrieved by the order of Ld. CIT (Appeals), the assessee has preferred this appeal before the Tribunal on the following effective grounds:-

1. "Disallowance of Administrative and financial charges of Rs. 93,16,308/- U/s 154.

1.1 *The Ld. C.I.T. (Appeals)-20 Mumbai, has erred in confirming the order passed u/s 154 by the Dy. C.I.T. 9(3), Mumbai, disallowing administrative and financial charges at Rs. 93,16,308/- as against Rs. 84,16,400/- disallowed in order u/s 143 (30 read with sec. 147 dated 28.8.2006 and erred in not considering the fact that the impugned order is bad in law as there was no apparent mistake in the said order dated 28.8.2006 as the total expenses were disallowed by him to the extent of Rs. 84,16,398/- as discussed in Para 9.*

1.2 *Without Prejudice, the said C.I.T. (Appeal) and the A.O. erred in not allowing following statutory expenses of Rs. 16,79,323/-, which were incurred for the maintenance and existence of the appellant company and earning of taxable income.*

<u>Nature</u>	<u>Rupees</u>
Listing Fees	51,500/-

<i>Board Meeting fees</i>	25,000/-
<i>Legal &amp; Professional fee</i>	90,000/-
<i>Misc Expenses</i>	11,485/-
<i>Bank Charges</i>	<u>15,01,338/-</u>
	<u>16,79,323/-</u>

5. This case was fixed for hearing on 23.04.2018. However, when the case was called out for hearing, none appeared on behalf of the assessee. Even no application for adjournment was received. Accordingly, we decided to dispose of the appeal on the basis of material on record after hearing the Departmental Representative (DR).

6. Before us, the Ld. DR submitted that since the mistake was apparent in the assessment order, the AO has rightly rectified the same. Moreover, the mistake had occurred due to wrong calculation and the AO has rectified the same. Hence, the Ld. CIT (A) has rightly confirmed the order passed by the AO.

7. We have carefully gone through the material on record. We notice that the AO has passed the order u/s 154A on the ground that while computing the total income the disallowance, it was inadvertently restricted to the loss return of Rs. 84,16,398/-. The Ld. CIT (A) has dismissed the appeal of the assessee holding as under:-

*“3.4 I have considered the facts of the case, findings of the Assessing Officer and rival submission of the appellant carefully. I find no merit in all the grounds of appeal because as per order u/s 147 dated 28.08.2006 income was to be ascertained at Rs. 8,99,910/- whereas inadvertently Ld. Assessing Officer has taken assessable income at Nil. It is very evident from Para ‘8’ of order u/s 147 dated 28.08.2006 that administrative and financial expenses of Rs. 98,51,000/- were disallowed whereas the total returned loss was of Rs. 84,16,398/-. Thus, while computing the income of the appellant a positive income of*

*Rs. 8,99,910/- was to be mentioned which was remained to be mentioned hence there was apparent mistake from the record. Thus, Ld. Assessing Officer has very rightly rectified the mistake. It is however seen from the grounds of appeal that appellant has agitated against the additions made in order u/s 147 which is irrelevant because its appeal has been filed against order u/s 154 of the I.T. Act, hence, appellant was to agitate as to how there is no apparent mistake from the record. Under this appeal merit of order u/s 147 r.w.s. 143 (3) cannot be decided hence I find no merit in all these grounds of appeal. Whereas the rectification made by the Assessing Officer is found to be correct so far as issue under appeal is concerned and is apparent from the record and rectifiable. In view of the above, all the grounds of appeal of the appellant are dismissed.”*

8. Since, the AO has rectified the mistake apparent u/s 154 of the Act without interfering with the findings in the assessment order, the Ld. CIT (A) has rightly confirmed the rectification order passed by the AO. Hence, we do not find any infirmity in the order of the Ld. CIT (A) to interfere with. We accordingly hold that there is no merit in the appeal of the assessee. Accordingly, we uphold the findings of the Ld. CIT (A) and dismiss the appeal of the assessee.

In the result, appeal filed by the assessee for assessment year 2001-2002 dismissed.

Order pronounced in the open court on 20<sup>th</sup> July, 2018.

Sd/-

(SHAMIM YAHYA)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 20/07/2018

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

Alindra, PS

**आदेश प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**