

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI VIKAS AWASTHY (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 154/MUM/2019
Assessment Year: 2014-15**

GRP Limited Employees
Superannuation Scheme,
510, Wing A Kohinoor City
Commercial – I, Kirod Road, Off
LBS Marg, Kamani, Kurla (W),
Mumbai-400070.

PAN No. AAATG9524F

Appellant

Vs. DCIT(CPC), Post Bag No. 2,
Electronic City Post Office,
Bangalore-560500,
ITO Exemption 1(3),Mumbai

Respondent

Assessee by : Mr. Rajesh S. Shah, AR
Revenue by : Mr. Dharm Veer Singh, DR

Date of Hearing : 14/01/2020
Date of pronouncement : 22/01/2020

ORDER

PER N.K. PRADHAN, A.M.

This is an appeal filed by the assessee. The relevant assessment year is 2014-15. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-1, Mumbai [in short 'CIT(A)'] and arises out of the order u/s 154 of the Income Tax Act 1961, (the 'Act').

2. The grounds of appeal filed by the assessee read as under:

1. On facts and circumstances of the case and in law, the CIT(A) erred in holding that there was no prima facie error in the Order passed by the CPC

in spite of filing rectified return in response to earlier intimation under section 143(1) of the Act.

2. On facts and circumstances of the case and in law, the CIT(A) erred in not considering that the rectified return filed and which was produced before him and the appeal is against the said order which is appealable.
3. On facts and circumstances of the case and in law, it has been wrongly held that no mistake was apparent from the record.
4. Without prejudice to above and on facts and circumstances of the case and in law, the appellant was entitled to exemption u/s 10 of the Act and hence the addition made u/s 143(1) be deleted.
5. Without prejudice to above and on facts and circumstances of the case and in law, the DCIT has no power to make any addition u/s 143(1) of the Act.

3. The appellant is a registered trust and has been claiming exemption of income u/s 10 of the Act. It filed its return of income for the AY 2014-15 on 24.09.2014 declaring total income at Rs. Nil. The return of income was processed u/s 143(1) by disallowing Rs.8,99,700/- u/s 10 of the Act. The appellant applied for rectification u/s 154 of the Act. The AO (CPC) rejected the request for rectification u/s 154 of the Act vide order dated 16.01.2018.

Aggrieved by the order of the AO (CPC), the assessee filed an appeal before the Ld. CIT(A). We find that the Ld. CIT(A) *vide* order dated 14.12.2018 dismissed the appeal filed by the appellant on the ground that :

“6.2.1 It is seen from such mention in the order passed u/s 154 rejecting the request of the assessee that AO has clearly mentioned that for the claim of exemption of Sec.10, the details of Approving/registering Authority and section under which exemption claimed are not furnished in the SCH Part-A GEN/ as also the income eligible for exemption u/s 10 has not been entered. In the said rejection

letter assessee has been requested to furnish details in all the applicable schedules of the return and further to ensure that details in Part-BTI are filled. The assessee has also been further requested to furnish all the necessary details and then file for online rectification. The assessee in consequence, has filed this appeal. In the submissions the appellant nowhere mentions that the said observations of the AO were either incorrect or they have complied with the necessary requirements by furnishing and filing requisite details at requisite places of the return. In the submission the appellant only contends that they have been claiming exemption u/s 10 every year and that such claim has been accepted even in the subsequent assessment years. The fact may be so, but the instant appeal is against the order passed u/s 154 and as long as no mistake apparent from record is found, the order so passed by the AO cannot be treated as erroneous. In the facts and circumstances of the case and discussion herein above and in view of the observations of the AO while disposing off the rectification application filed by the assessee before AO(CPC), the action of the AO is found to be justified and is upheld.”

4. Before us, the Ld. counsel for the assessee submits that the appellant is a registered trust and has been claiming exemption of income u/s 10 of the Act every year; the said exemption has been allowed in earlier years as well as in subsequent years. It is further stated that the gratuity fund is for the benefit of the employees and exemption is allowable. Further it is explained that appeal lies before the Ld. CIT(A) against intimation u/s 143(1) by the Centralized Processing Centre (CPC), Bangalore and there is no requirement in law to approach the CPC for rectification of intimation u/s 143(1), if assessee is aggrieved by the order and denies his liability.

5. On the other hand, the Ld. Departmental Representative (DR) submits that the CPC has rejected the application of the assessee for rectification u/s 154 on the ground that :

“Please refer to the rectification request by you for the Assessment Year 2014-15 in respect to above mentioned order and received at Centralized Processing Centre on 26.06.2017.

On verification, it is seen that there is no prima facie error in the order which you have sought to be rectified. Therefore, your application for Rectification u/s 154 is rejected, for the allowing reasons (if any)”.

As seen from the Return of Income filed, there is no mistake in the intimation u/s 143(1). For the claim of exemption of Section 10, the details of Approving/registering Authority and Section under which exemption claimed are not furnished in the SCH Part –A Gen/Return Furnished Under Section in SCH. Filing Status.

- The Income eligible for Exemption u/s 10 has to be entered in SCH. Part – BTI under “Amount of income exempt under any clause of section 10, to the extent”
The amount of exemption claimed has to be entered in the row relating to the Section/Clause of claim.
- In view of the above, this rectification Request is rejected.
- Note : The assessee is requested to furnish detail in all the applicable Schedules of the return. Ensure that details in Part-BTI are filled.
- The assessee is requested to furnish all the necessary details and then file for Online Rectification.”

5.1 We find that u/s 143(1), an AO can complete the assessment without passing a regular assessment order. From April 1, 2008, the total income of an assessee shall be computed after making the following adjustments to the total income in the return-

- a. any arithmetical error in the return; or

b. an “incorrect claim”, if such uncorrected claim is apparent from any information in the return.

For the above purpose, the term “an incorrect claim apparent from any information in the return” shall mean such claim on the basis of an entry, in the return, -

a. of an item, which is inconsistent with another entry of the same or some other item in such return ;

b. in respect of which, information required to be furnished to substantiate such entry, has not been furnished under this Act ; or

c. in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

Further, these adjustments will be made only in the course of computerized processing without any human interface.

5.2 We are of the considered view that keeping in mind the problem faced by the assessee with regard to the adjustments in the course of computerized processing without human interface in the backdrop of summary assessment made u/s 143(1) by the CPC, Bangalore, the matter be restored to the AO. Therefore, we set aside the order of the Ld. CIT(A) and restore the matter to the file of the AO to make an order afresh after giving reasonable opportunity of being heard to the assessee. We direct the assessee to file the relevant documents/evidence before the AO.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22/01/2020.

Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai;
Dated: 22/01/2020
Biswajit, Sr. P.S.

Sd/-

(N.K. PRADHAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai