

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.2622/M/2017
Assessment Year: 2013-14**

M/s. Mulji Devshi & Co., 116 Keshavji Naik Rd., Chinch Bunder, Mumbai – 400 009 PAN: AAAFM8247R	Vs.	ACIT Circle 17(2), Office of the ACIT, 1 st Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dinkle Haria, A.R.
Revenue by : Shri Akhtar H. Ansari, D.R.

Date of Hearing : 29.09.2020
Date of Pronouncement : 13.10.2020

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 01.02.2017 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2013-14.

2. The assessee has raised six grounds of appeal. At the time of hearing the ld counsel of the assessee submitted that the issue raised in ground No.4 is against the order of CIT(A) not giving specific direction to the AO to dispose of the petition filed under section 154 of the Act by the assessee before the AO on 13.04.2016 wherein identical issues were raised as taken up in

the ground no 1 to 3 in the present appeal. The ld AR submitted that the said rectification application dated 13.04.2016 is still pending for disposal. The ld AR argued the issues raised in ground no. 1 to 3 on merits also and vehemently prayed that the mistakes being apparent in the assessment order, the AO may be directed to delete the additions made. The ld DR relied on the order of authorities below through candidly agreeing to the fact that rectification is pending before the AO with similar issues.

3. After hearing both the parties and perusing the material on record, we find that the rectification application dated 13.04.2016 filed by the assessee under section 154 of the Act requesting the AO to rectify the apparent mistakes in the assessment order dated 15.03.2016 is still pending for disposal. We note that the same issues have been raised before the Bench in the present appeal in ground no 1 to 3 also which are pending before the AO in the rectification proceedings. Therefore, without commenting on the merits of the issue, we are inclined to restore the issue back to the file of the AO with the direction to decide the issues raised in the said rectification application within a period of 120 days from the receipt of the order after affording reasonable opportunity of hearing to the assessee.

4. Since we have restored the appeal of the assessee to the file of the AO, the grounds no. 1 to 3 have become academic at this stage, while ground no 4 is allowed for statistical purpose. The AR has not argued ground no. 5 and is accordingly dismissed.

5. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 13.10.2020.

**Sd/-
(Vikas Awasthy)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 13.10.2020.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.