

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE

BEFORE HON'BLE RAJPAL YADAV, VICE PRESIDENT
AND
HON'BLE MANISH BORAD, ACCOUNTANT MEMBER
VIRTUAL HEARING

ITA No.191 & 192/Ind/2020

Assessment Years: 2011-12 & 2012-13

ACIT-3(1)

Indore

: Appellant

V/s

Madhya Pradesh Financial Corporation

Indore

: Respondent

PAN:AADCM6480C

Revenue by	Shri S.S. Mantri, CIT-DR
Respondent by	Shri Ashish Goyal, & N.D. Patwa, ARs
Date of Hearing	04.08.2021
Date of Pronouncement	23.08.2021

ORDER

PER MANISH BORAD, A.M

The above captioned appeals filed at the instance of the
Revenue for Assessment Year 2011-12 & 2012-13 are directed

against the orders of Ld. Commissioner of Income Tax(Appeals)-I (in short 'Ld. CIT], Indore dated 28.02.2020 which are arising out of the order u/s 154 of the Income Tax Act 1961(In short the 'Act') dated 26.02.2019 framed by ACIT-3(1), Indore.

The Revenue has raised following grounds of appeal in ITANos.191 & 192/Ind/2020:

- 1. Whether on the facts and in circumstances of the case, the Ld. CIT(A) has erred in law in holding that the assessee has wrongly paid tax under MAT provision for A.Y. 2011-12/2012-13 which constitutes a mistake apparent from the record which is to be rectified u/s 154 of Income Tax Act, particularly when no such provisions are available with respect to rectification of return of income filed by the assessee.*
- 2. The appellant craves leave to add to or deduct from or otherwise amend the above grounds of appeal.*

2. At the outset, Ld. counsel for the assessee submitted that the issue raised in both these appeals by the revenue is squarely covered in favour of the assessee by the decision of Hon'ble Income Tax Appellant Tribunal Indore in assessee's own case vide ITANo.117 to 119/Ind/2016 for A.Y. 2008-09 to 2010-11.

3. Per contra Ld. Departmental Representative (DR) supported the orders of both lower authorities but could not controvert the contention made by the assessee that the issue is covered against

the revenue by the decision of this tribunal in assessee's own case.

4. We have heard rival contentions and perused the records placed before us. Revenue's common grievance against the finding of Ld. CIT(A) holding that the assessee has wrongly paid tax under MAT Provision which constitute a mistake apparent from the records which is to be rectified u/s 154 of the Act, particularly when no such provisions are available with respect to rectification of return of income filed by the assessee.

5. We observe that the assessee is a corporation established by Madhya Pradesh State Government and is engaged in term lending to small, medium scale and services sector industries. In the return of income originally filed, assessee accepted to be liable to pay tax on the book profit u/s 115JB of the Act and paid tax accordingly. Thereafter the assessee moved rectification application u/s 154 of the Act to rectify the assessment on the point of non-applicability of MAT provisions on the State of Finance Corporations. The rectification applications were rejected by the ld. AO.

6. Aggrieved assessee filed an appeal before the Id. CIT(A), succeeded and allowed in favour of the assessee relying on the decision of this Tribunal held in assessee's own case.

7. We find that in instant two appeals, similar issue is raised by the revenue and the facts are identical as there is a similar rejection of assessee's application u/s 154 of the Act and subsequently the appeal filed against the order u/ s 154 of the Act was decided in favour of assessee. This issue has come up before this Tribunal in assessee's own case for A.Ys. 2008-09 to 2010-11 and this Tribunal vide its order dated 04.08.2016 ITANo.117 to 119/Ind/2016 decided against the revenue observing as follows:

4. We have heard both the sides. During hearing, the Learned counsel for the assessee drew out attention to the judgment of the Hon'ble Calcutta High Court in the case of West Bangal State Warehousing Corporation vs. CIT 27 Taxman 589 (Cal) wherein it was held that section 154 of the Income Tax Act 1961-Rectification of mistake-apparent from record-assessee, a state warehousing corporation, did not make claim for exemption of its income derived from warehousing under section 83(now section 10(29)) before ITO or AAC- Later it mover an application under section 154 for claiming such exemption -All material for purpose of determining the question was before ITO and in subsequent assessment

years assessee had been allowed exemption –Whether assessee’s assessment had to be rectified under section 154 to allow it exemption claimed –Held, on facts yes.

5. Similarly, in the instant case, while filing the return of income, the assessee did not claim that the assessee is a state Financial Corporation and the assessee has filed its return under the impression that MAT provision is applicable and paid the MAT on it after it has come to the knowledge of the assessee that in the years under consideration i.e. assessment year 2008-09 to 2010-11, the assessee is not liable for MAT and the MAT is applicable from the assessment year 2013-14 i.e. sub-section (2) of section 155JB(1). Therefore, the assessee has moved this application for rectification of the order because the assessee is not covered under MAT provision u/s 155JB. The assessing Officer did not allow the application and the Ld. CIT(A) has allowed it. Moreover, there are various decisions including the decision of the Hon'ble Kerala High Court in 196 Taxman.1 wherein it is held that MAT is applicable from the assessment year 2013-14. Therefore, the Ld. CIT(A) is fully justified in allowing the appeals of the assessee. We, therefore, find no merit in these appeals of the revenue and dismiss the same.

6. In the result, all the appeals of the revenue stand dismissed.”

8. We, therefore, respectfully following the decision of this tribunal in assessee’s own case which is squarely applicable on

the issues raised in the instant two appeals and also in view of the fact that Ld. DR failed to furnish any contrary binding decision in its favour, find no ambiguity in the finding of Ld. CIT(A) and the same stands confirmed. Accordingly instant appeals for A.Y.2011-12 & 20120-13 are dismissed.

9. In the result, Revenue's appeals in ITANo.191 & 192/Ind/2020 are dismissed.

The order pronounced as per Rule 34 of ITAT Rules, 1963 on 23.08.2021.

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated :23.08. 2021
Patel/PS

Copy to: The Appellant/Respondent/CIT concerned/CIT(A) concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore