

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:2608/CHNY/2018

निर्धारण वर्ष /Assessment Year: 2013-14

Yeldi Softcom Pvt. Ltd.,
New No.AJ 227, Old No.AJ 8,
Shanthi Colony Main Road,
Anna Nagar,
Chennai - 600040.

The DCIT,
v. Corporate Circle 3(2),
Chennai.

PAN: AAACY 5194Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri T. Vasudevan, Advocate
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 19.05.2022

घोषणा की तारीख/Date of Pronouncement

: 19.05.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-13, Chennai in ITA No.382/CIT(A)-13/2013-14 dated 18.07.2018. The return for the assessment year 2013-14 was processed and intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') was issued vide

dated 17.10.2014. The rectification order u/s.154 of the Act was done by the ACIT, Centralized Processing Center, Bangalore vide order dated 14.01.2015.

2. Brief facts are that the assessee is assessed under PAN No. AAACY 5194Q in the Companies range 3, now known as Corporate Circle 3(2), Chennai for the assessment year 2013-14. The assessee filed its return of income for the assessment year 2013-14 claiming business loss of Rs.13,43,900/-. The assessee received intimation of return of income u/s.143(1) of the Act determining total income of Rs.48,31,639/- and consequently demand of Rs.19,26,660/- was raised. The assessee moved rectification application dated 31.12.2014 seeking rectification of mistake committed in the intimation issued u/s.143(1) of the Act in the facts of the data carried in the return of income. But the assessee received order rejecting application u/s.154 of the Act and assessing the same income as earlier under intimation u/s.143(1) of the Act. Aggrieved assessee preferred appeal before CIT(A).

3. The CIT(A) noted that the assessee company has shown total credits as per profit & loss account at Rs.61,75,536/- consisting of opening stock / sales as work in progress at Rs.55,97,758/- and

employees compensation at Rs.5,84,296/-. Therefore, according to CIT(A), CPC, Bangalore has determined income as under:-

As per Col.38 – Return of income – Total credits	:	Rs.61,75,536
Less: Income returned by the assessee company u/s 115JB	:	(-) <u>Rs.13,43,897</u>
Total income determined as per intimation u/s 143(1)/154	:	Rs.48,31,639/-

4. The CIT(A) after considering the submissions and the remand report of the AO confirmed the action of AO by observing as under:-

“The assessee has preferred not to show amount of total credits i.e. sales in the return of income under col.38. The AO has verified this aspect during the remand report proceedings and has reported that On .verification of the intimation and the revision order passed by the CPC, it is seen that in the Profit and Loss account the work in progress was shown at Rs. 55,97,758/-. Besides under the head "other expenses" the total was arrived at Rs. 61,75,536/-. In these circumstances, it may be seen that on the basis of the data provided in the return of income i.e. total credits as per P &L account as per return is shown at Rs.61,75,536/- and after deducting the loss of Rs. 13,43,897/-, the total income was computed by the CPC at Rs.48,31,639/-. For the reasons stated above, as the assessee has shown the work-in-progress as appearing in the credit side of the P & L account the CPC's computation of income resulted in income to the tune of Rs.48,31,639/. It is always the practice as per the Profit and Loss account, net profit /loss will be declared as income/loss in the return of income filed. When there is no opening stock, there will not be closing stock. In the instant case the assessee has shown the closing stock amounting to Rs.55,97,758/- which was shown as work-in-progress and shown by the assessee as total credits. Hence, the mistake is purely attributable in the part of the assessee. When the assessee has received the intimation u/s 139(5) or filed a petition u/s 264 before the CIT. Instead, the assessee has resorted to get the relief by way of filing appeal before the CIT(A). Further, It may be seen that the CPC has arrived at the total income at Rs.48,31,639/- as per the working given in the remand report above.

As per the above working, it may be seen that the mistake is purely attributable on the part of the assessee. When the assessee has received the

intimation determining the total income at Rs.48,31,639/- as against Book profit u/s 115JB (-) Rs.13,43,897/-, the company ought to have revised the return of income u/s-139(5) or filed a petition u/s 264 before the CIT. Instead, the assessee has resorted to get relief by way of filing an appeal before the CIT(A). Reliance is placed on the decision of the Supreme Court in the case of **Goetz** (India) 284 ITR 323 wherein it was held that if the assessee commits any mistake, it can be rectified by filing revised return and no amendment can be done u/s 154. Therefore, relying on the Apex Court Decisions Supra appellant's ground "of appeal is found to be not sustainable, hence dismissed. In the result the appeal of the assessee is dismissed."

Aggrieved assessee came in appeal before the Tribunal.

5. Before us, the Id.counsel for the assessee only requested that he has wrongly declared total credits in profit & loss account while filing return of income at Rs.61,75,536/-. The assessee on verification explained that this amount includes work-in-progress and other expenses and assessee company has not reported any sales / opening stock whereas the work-in-progress was shown at Rs.55,97,758/- and employees compensation at Rs.5,84,296/-. The Id.counsel stated that prima-facie there is a mistake on the part of the assessee in declaring these items in the return of income in regard to total credits.

6. We find that the mistake by assessee while filing of return digitally seems rectifiable but subject to verification by the AO. It is debatable that whether the total credit includes work-in-progress

and compensation of employees which is wrongly included by assessee in its income i.e., total credits. The AO will verify from the books of accounts and will decide the claim of assessee accordingly. Hence, we set aside the intimation order passed u/s.143(1) of the Act, rectification order passed by AO u/s.154 of the Act and the order of CIT(A) and remand the matter back to the file of the AO to reconsider the issue after allowing opportunity of being heard to the assessee.

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

Order pronounced in the open court on 19th May, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 19th May, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |