

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI. CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 123/Bang/2022
Assessment Year : 2018-19

M/s. KMV Projects Ltd., 8-3-948/949, Level 4, Solitair Plaza, Beside Image Hospital, Ameerpet, Hyderabad – 500 073. PAN: AADCK0785C	Vs.	The Assistant Commissioner of Income Tax, Central Circle – 2(4), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri Vilas V Shinde, CIT

Date of Hearing	:	30-06-2022
Date of Pronouncement	:	11-07-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against order dated 26/11/2021 passed by Ld.CIT(A)-11, Bangalore for A.Y. 2018-19.

2. Brief facts of the case are as under:

For the year under consideration, the assessee had filed its return of income on 27/10/2020, declaring an income of Rs.120,82,53,580/-. An order u/s. 143(3) of the Act was passed by the Ld.AO on 24.12.2020 determining the total income at Rs.130,55,46,012/- and raising a demand of Rs.6,93,18,855/-.

Subsequently, the assessee filed rectification application stating that the interest u/s. 234C of the Act was wrongly calculated. The Ld.AO passed order u/s. 154 of the Act on 05.01.2021 and revised the demand to Rs. 5,22,74,010/-.

3. Before this *Tribunal*, the assessee raised the following grounds:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1	<i>The order of the learned Commissioner of Income Tax (A) is against the law, weight of evidence and probabilities of case.</i>	Rs.2,43,69,785 /-
2	<i>The learned Commissioner erred in not considering the claim of deduction u/s 80IA amounting to Rs.8,12,32,615/-.</i>	Rs.2,43,69,785 /-
3	<i>The learned Commissioner ought to have appreciated that the assessee, in his grounds of appeal and also in the written submissions made the claim of the deduction u/s 80IA, therefore, erred in not considering the same.</i>	Rs.2,43,69,785 /-
4	<i>The learned Commissioner erred in confining the adjudication only to the order u/s 154 without considering the grounds of appeal and written submissions, therefore, further erred in not allowing the deduction u/s 80IA claimed at Rs.8,12,32,615/-.</i>	Rs.2,43,69,785 /-
5	<i>The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.</i>	Rs.2,43,69,785 /-

4. It is submitted that the Ld.CIT(A) did not consider the claim of deduction u/s. 80IA of the Act, and that the Ld.CIT(A) dismissed the claim raised by the assessee.

5. On the contrary, the Ld.DR submitted that the appeal was filed before Ld.CIT(A) against the order passed by the Ld.AO dated 15/01/2021 u/s. 154 of the Act, wherein, the assessee sought rectification of interest computed u/s. 234C of the Act. The Ld.DR supported the order of Ld.CIT(A) by submitting that, the order of disallowance of deduction u/s. 80IA of the Act, was not part of the rectification order that was impugned before the Ld.CIT(A).

6. We have perused the submissions advanced by both sides in the light of records placed before us.

7. We note that the appeal filed by the assessee before the Ld.CIT(A) was against the order passed u/s. 154 of the Act. The Ld.AO in the order dated 05/01/2021 passed u/s. 154 r.w.s. 143(3) of the Act sought to rectify a mistake apparent on record, that crept in while calculating interest u/s. 234B & C of the Act. Against this order, the assessee preferred appeal before the Ld.CIT(A), wherein it also raised claim of disallowance made u/s. 80IA of the Act by the Ld.AO in the order passed u/s. 143(3) of the Act amounting to Rs. 8,12,32,615/-.

In our view, the Ld.CIT(A) could not have considered the claim, as it did not arise out of the order passed u/s. 154 of the Act, by the Ld.AO, being the impugned order before the Ld.CIT(A).

8. We therefore do not find any merit in the grounds raised by assessee before this *Tribunal*. In order to raise the claim against the disallowance made u/s. 80IA of the Act, the assessee should have preferred appeal against the assessment order passed by the Ld.AO u/s. 143(3) of the Act dated 24/12/2020.

We therefore are not inclined to consider the grounds raised by the assessee in the present appeal that arises out of an order passed u/s. 154 of the Act.

In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in open court on 11th July, 2022.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 11th July, 2022.
/MS /

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| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore