

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted Through Virtual Court)

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 135/Rjt/2020
Assessment Year 2013-14**

Smt. Chandrikaben Thakarshibhai Langhnoja, Avadh, Jamnagar Road, Punit Nagar-1, Rajkot-360001 PAN No: AAPPL7444J (Appellant)	Vs	The I.T.O. Ward- 2(2)(3), Rajkot (Respondent)
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**Appellant by : Shri Mehul Ranpura, A.R.
Respondent by : Shri B.D. Gupta, D.R.**

Date of hearing : 19-09-2022
Date of pronouncement : 28-09-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee against the order dated 28.02.2020 passed by the Commissioner of Income Tax (Appeals)-2 Rajkot as against the Assessment order passed under section 154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2013-14.

2. The brief facts of the case is that the assessee is an individual and working as a Primary School Teacher with the Primary Education School Board, Rajkot. Her gross salary for the Assessment Year 2013-14 was Rs. 5,42,401/- and after statutory allowable deduction as per Form No. 16 issued by her employer and the net taxable income was Rs. 4,97,370/- and after Tax Deduction at Source (TDS) of Rs. 30,629/-. The assessee filed her Return of Income on 30.05.2013 however by typographical mistake declaring the income as Rs. 54,97,370 as against her total income of Rs. 4,97,370/-. The said return was processed u/s. 143(1) on 04.10.2013 by Centralized Processing Centre, Bengaluru and demanded a tax of Rs. 16,52,698/- on the mistakenly returned income of Rs. 54,97,370/-.

3. Aggrieved against the same, the assessee filed a revised return on 06.01.2015 by e-filing correcting the typographical error and offering the total income of Rs. 4,97,370/-. The above return was declared "Invalid" with E-filing Acknowledged Number 459041810060115. Therefore the assessee filed a rectification petition u/s. 154 on 16.10.2018 submitting the typographical error, erupt in the original return of income and produced Form No. 16 claiming that her income from salary and the total income assessable as Rs. 4,97,370/-. The Ld. Assessing Officer vide his rectification order dated 16.10.2018 took a note of all the above submissions, however held that the Revised Return of Income is required to be filed within the time limit prescribed under the Act.

As the Revised Return is not filed within the time, the income cannot be revised and therefore rejected the rectification petition.

4. Aggrieved against the same, the assessee filed an appeal before the Ld. Commissioner of Income Tax (Appeals). The Ld. CIT(A) held that the assessee has not filed Revised Return of Income within the time limit. Relying upon the Hon'ble Supreme Court Judgment in the case of Goetze (India) Ltd. vs. CIT (284 ITR 323) the assessee's case do not fall under section 154 and therefore confirmed the order of the Assessing Officer and dismissed the appeal filed by the assessee.

5. Aggrieved against the same, the assessee is in appeal before us with the delay of 118 days in filing the above appeal.

5.1 Registry has noted that there is a delay of 118 days in filing appeal by the assessee before the Tribunal. The appeal is filed before the Tribunal on 24.08.2020 whereas the appeal ought to have been filed on or before 30.04.2020 This period falls under COVID-Pandemic situation, thus following Hon'ble Supreme Court judgment dated 23.3.2020 in suo moto Writ Petition (Civil) No.3 of 2020, vide Hon'ble Supreme Court has extended time limit for filing appeals w.e.f. 15.3.2020. Thus, there is no delay in filing the above appeal and we take the appeal of the assessee for adjudication on merit.

6. Ld. Counsel Mr. Mehul J. Ranpura appearing for the assessee submitted that the assessee is engaged in the noble profession of school teacher and by typo mistake the return was filed for an amount of Rs. 54,97,370/- as against the total income of Rs. 4,97,370/-. When the assessee received 143(1) intimation with an huge demand of Rs. 16,52,298/-. The assessee filed a Revised Return of income on 06.01.2015 and acknowledgement of the return was sent to CPC Centre for E-verification through ordinary post within prescribed time limit of 120 days. However due to some reasons, the same was not received by CPC Centre, the Revised Return was held be invalid. It is thereafter the assessee filed a rectification application u/s. 154 of the Act on 16.10.2018 requesting the A.O. to rectify mistake apparent from record and Revised the income of the assessee to Rs. 4,97,370/-. In support of her claim the assessee submitted in Form No. 16 showing the correct salary income and TDS deducted by the School Authorities. The assessee also submitted the bank statements to show her salary income. However the A.O. rejected the rectification application on the ground that Revised Return ought to have been filed within prescribed time limit.

6.1. When the assessee carried the matter on appeal before the ld. CIT(A). The ld. CIT(A) dismissed the appeal of the assessee on the ground that following the Hon'ble Supreme Court judgment in the case of Goetze (India) Ltd., the Revised Return ought to have been filed by the assessee. Thus the assessee claimed that there is no new claim or deduction made by the assessee which warranting her

to file a Revised Return of income. In the original return of income a typographical error of typing "5" in the prefix to the gross total income of Rs. 5,42,401/-. This is basically apparent mistake available on record. Therefore the filing of Revised Return does not arise in the above case. More particularly when Form No. 16 issued by the School Authorities clearly shows that the assessee's salary income and TDS thereon. Thus the lower authorities miserably failed to consider a genuine hardship caused to a school teacher while e-filing her return of income. Therefore the entire addition made is to be deleted and thereby allow the appeal of the assessee.

7. Per contra the ld. D.R. Shri B.D. Gupta appearing for the Revenue fairly admitted it is an apparent mistake on record which is rectifiable u/s. 154 of the Act. Therefore the same may be taken on record and appropriate order be passed by the Tribunal.

8. We have heard both parties and perused the materials available on record including the Paper Book filed by the assessee. It is most unfortunate case of the assessee that while e-filing the original Return of Income by mistake the gross total income is typed as Rs. 55,40,001/- and after paying taxes of Rs. 30,629/-. When this return was processed u/s. 143(1) and a demand of Rs. 16,52,698/- was raised against the assessee. The assessee realized the mistake and therefore filed a Revised Return on 06.01.2015 with Acknowledged Number 459041810060115. However for the reasons best known to the department, the same was not taken on record and acknowledged as Invalid Return. It is thereafter the

assessee filed a Rectification application on 16.10.2018 enclosing Form No. 16 showing the salary income and TDS made by the Principal of the school. This rectification petition was dismissed by the assessing officer on the ground that Revised Return ought to have been filed within time limit prescribed under the Act. Therefore the income cannot be revised under the rectification petition. Thus the A.O. grossly failed to note that it is an apparent mistake on record and a typographical error committed, while filing the e-return. Similarly, the Ld. CIT(A) also dismissed the appeal of the assessee relying upon the Hon'ble Supreme Court judgment in the case of Goetze (India) Ltd., (cited supra). The ld. CIT(A) thus failed to appreciate the ratio of the Hon'ble Supreme Court judgment in the case of Goetze (India) Ltd., wherein it was held that the assessing officer cannot entertain a new claim or deduction unless a Revised Return is filed by the assessee whereas the Appellate Authorities without filing Revised Return, can entertain such new claim or deduction with appropriate proof before the Appellate Authorities.

8.1. Furthermore, in the present case at hand, the assessee has not made any new claim or deduction which require to file Revised Return. The grievance of the assessee is that the typographical error which has happened while filing the e-return. Thus, this is a clear case of mistake apparent on record which is very well curable/rectifiable u/s. 154 of the Act. Thus both the assessing officer and the Ld. CIT(A) has not properly appreciated the provisions of law and acted arbitrarily against the simple and

genuine case of typographical mistake. The Lower Authorities ought to have considered the Form No. 16 issued by the School Authorities as well as the bank statements provided by the assessee, to show her salary income from the teaching profession. However none of the above records have been considered by the lower authorities and arbitrarily derived the assessee to come for the second stage of appeal before us. This kind of arbitrariness should be avoided in such a simple genuine case, where the assessee proved establishing the typographical mistake in the e-filing return. Therefore the rejection of 154 petition is hereby set aside and we direct to delete the additions made in the hands of the assessee.

9. In the result, appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 28-09-2022

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 28/09/2022

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
राजकोट