

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

(Conducted through Virtual Court)

**ITA No.188/Ind/2022
Assessment Year: 2014-15**

Perfect Real Infra (India) Pvt. Ltd., vs. Asstt. Commissioner of Income
Saree Bazar, Tax, Khandwa.
Burhanpur – 450 331 (M.P.)
[PAN – AADCB 0859 Q]
(Appellant) (Respondent)

Appellant by : Shri Pankaj Shah, CA
Respondent by : Shri Ashish Porwal, Sr. DR

Date of hearing : 06.12.2022
Date of pronouncement : 20.12.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the assessee against the order dated 30.05.2022 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2014-15.

2. The grounds of appeal are as under:

- “1. *On the facts and circumstances of case and in law the National Faceless Appeal Centre erred in confirming the rejection of the revised return of the contention that a belated return cannot be revised. The appellant prays that revised return be accepted and set off of loss be allowed.*
2. *On the facts and circumstances of case and in law the National Faceless Appeal Centre erred in confirming the action of Assessing Officer in not allowing set off of loss by not considering the same in the assessment. The appellant prays that the loss be considered and allowed to be set off.*
3. *On the facts and circumstances of case and in law the National Faceless Appeal Centre erred in confirming the action of AO in not allowing set off of loss as claimed in return of income by not directing the learned AO to rectify the mistake apparent from record. The appellant prays that the*

rectification to order be directed to be made and set off of loss be allowed.

4. *On the facts and circumstances of case and in law the National Faceless Appeal Centre erred in confirming an order which is in contravention to principles of natural justice. The appellant prays that the order be directed to be quashed.”*

3. The original return was filed by the assessee on 30.03.2015 belatedly declaring a total income of Rs.67,59,620/-. The revised return of income was filed on 26.09.2015 declaring total income of Rs.49,52,481/-. The case was selected for scrutiny and order under Section 143(3) of the Income Tax Act, 1961 was passed on 25.11.2016 thereby making disallowance of Rs.26,237/- in respect of electricity expenses, disallowance of Rs.10,000/-, in respect of vehicle expenses, disallowance of Rs.10,000/- in respect of office expenses and disallowance of Rs.20,000/- on account of travelling expenses. The assessee filed rectification application under Section 154 on 06.08.2018 claiming that the adjustment under Section 143(3) of the Act should be revised as per the revised income, assessing the income at Rs.68,25,860/- after various disallowance aggregating to Rs.66,237/-. The order under Section 154 of the Act was passed on 13.05.2019 thereby rejecting the rectification application.

4. Being aggrieved by the order under section 154 of the Act, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee is a Private Limited Company and its books of accounts were audited under Section 44AB of the Act. Due to certain circumstances the original return of income was filed belatedly and, thereafter, the revised return of income was filed within 6 months. The Assessing Officer has not given the set off of brought forward business loss and brought forward depreciation as per the revised computation filed by the assessee. Therefore, the Ld. AR submitted that the Assessing Officer should be directed to take cognisance of the same and accordingly the brought forward business loss & brought forward depreciation should be taken into account by giving the set off of both these heads as per revised computation as per revised computation.

6. The Ld. DR submitted that the Assessing Officer has rightly made disallowance and the CIT(A) has categorically made the finding that there was no infirmity in the rectification order of the Assessing Officer. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that after filing of the belated return of income and the revised return of income, notices under Section 143(2) of the Act were issued by the Assessing Officer. Thus, the Assessing Officer should have taken cognisance of the revised computation and should have taken the correct income thereby taking cognisance of the brought forward business loss and brought forward depreciation. Therefore, we direct the Assessing Officer to grant set off of brought forward business loss and brought forward depreciation after verifying the same as per the law. Thus, the appeal of the assessee is partly allowed.

8. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on this 20th December, 2022.

Sd/-
(BHAGIRATH MAL BIYANI)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Indore, the 20th December, 2022

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore