

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

(VIRTUAL COURT)

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T. A. No. 180/Asr/2022
Assessment Year: 2011-12

Sh. Rajnish Dhawan
D-37-Focal Point,
Jalandhar 144004

[PAN: ABOPD 8062E]

(Appellant)

V. Income Tax Officer,
Jalandhar

(Respondent)

Appellant by Sh. Sudhir Sehgal & Sh. Anil Miglani, Adv.
Respondent by Ms. Priyanka Singla, Sr. D.R.

Date of Hearing : 26.12.2022
Date of Pronouncement : 31.01.2023

ORDER

Per Dr. M. L. Meena, AM:

The present appeal has been filed by the assessee against the order of the Ld. CIT(A) National Faceless Appeal Centre (NFAC) dated 21.07.2012 in respect of Assessment Year 2011-12.

2. The assessee has raised the following grounds of appeal:

- “1. That the order of the Ld. CIT(A), National Faceless Appeal Centre, Delhi is against law and facts of the case.
2. That the Ld. CIT(A) gravely erred in dismissing the appeal of the assessee ignoring the facts that the assessee had filed rectification application against the order under section 143(1) on 27.05.2015 and 21.06.2016 which are within the time limitation period.
 - 2.1 That the Ld. CIT(A) has wrongly considered the E-Nivaran Application filed on 16.08.2021 as rectification application and therefore, wrongly considered it to have been filed beyond limitation period of 4 years whereas the assessee had already filed rectification application under section 154 on 27.05.2015 which was disposed by the AO vide her impugned order dated 24.01.2022.
3. That the Ld. CIT(A) erred in not considering that the claim of the assessee under section 80IB at Rs. 17,74,170/- was wrongly not allowed by the AO under section 143(1) without any opportunity to the assessee and ignoring that the deduction is allowable on merits and also allowed in earlier year.
4. That the appellant craves leave to add or amend any of the ground of appeal before the appeal is finally heard or disposed off.”

3. The assessee has filed rectification application u/s 154 before the Assessing Officer for the claim of deduction u/s 80IB of the Act. The AO has rejected the said application being held as barred by limitation. The Id. CIT(A) has confirmed the order passed by the AO dated 24.01.2022 by observing vide para 4 of the appellate order as under:

- “4. I have gone through the facts of the case and material available on record. Deduction u/s.80IB has been disallowed u/s.143(1) of the I.T. Act, 1961 dated 09.11.2011 against which appellant has filed rectification application dated 16/08/2021. The same has been rejected by the A.O being barred by limitation. The current appeal is against the appellant application dated

16.08.2021. This application is filed after a gap of 4 years from the date of order under section 09.11.2011 hence not maintainable. Therefore no relief is allowed to the appellant and grounds of appeal are rejected. The appellant should have filed appeal when his first application under section 154 was rejected.

4. The Id. counsel for the assessee submitted that the Id. CIT(A) has erred in law and on facts in dismissing the appeal of the assessee ignoring the fact that the assessee has filed rectification application against the order u/s 143(1) on 26.05.2015 and 21.06.2016 which are within the time limit period and that the Id. CIT(A) has wrongly considered the E-Nivaran Application (reminder application) as rectification application filed on 16.01.2021 as rectification application and therefore wrongly considered and counted the limitation period of 4 years. The assessee has submitted that it has already filed rectification application u/s 154 27.05.2015 (APB pg. 15 & 16) on 27.05.2015 which was disposed of by the AO vide her impugned order dated 24.01.2022. The Id. counsel further contended that the Id. CIT(A) erred in not considering the claim of the assessee u/s 80IB at Rs.17,47,170/- which was wrongly disallowed by the AO u/s 143(1) without any opportunity to the assessee and ignoring that the deduction is allowable on merits and it has been allowed in the earlier assessment years 2009-10 and 2010-11 (APB pg. 34 to 37). He prayed that the

deduction claimed u/s 80IB of the Income Tax Act may be allowed to the appellant assessee.

5. The Id. DR stand by the impugned order.

6. Heard the rival contentions and perused the material on the record. Admittedly, the original rectification applications u/s 154 of the Act dated 27.05.2015 were filed by the assessee before the AO within the prescribed time period of 4 years as per law. The Id. DR has not controverted the fact of filing of rectification application u/s 154 of the Act of the appellant within the prescribed time limit. We have considered the documentary evidences submitted by the assessee in support on record to prove that the assessee is entitled for deduction u/s 80IB. In our view, these documentary evidences are an additional evidence on record which are considered to be very much relevant to decide the matter on merits. Accordingly, we consider that it is a fit case to be restored back to the file of the AO to decide the issue claim of deduction u/s 80IB of the assessee on merits after considering the documentary evidence filed on record and granting sufficient opportunity of being heard to the appellant assessee. The assessee is directed to put up its claim before the AO in the fresh

proceedings with the support of the additional evidence admitted on record under reference.

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

Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 on 31.01.2023

**Sd/-
(Anikesh Banerjee)
Judicial Member**

**Sd/-
(Dr. M. L. Meena)
Accountant Member**

GP/Sr./P.S.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order