

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No. 24/RPR/2023

निर्धारण वर्ष / Assessment Year : 2010-11

Dr. Ashok John,
Hospital Daupara,
Bilaspur Road, Mungeli (C.G.)-495 334
PAN: ADNPJ0381R

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-2(2),
Bilaspur (C.G.).

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 11.04.2023

घोषणा की तारीख / Date of Pronouncement : 17.04.2023

आदेश / ORDER**PER RAVISH SOOD, JM**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 21.11.2022, which in turn arises from the order passed by the A.O under Sec. 154 of the Income-tax Act, 1961 (in short 'the Act') dated 18.07.2018 for the assessment year 2010-11. The assessee has assailed the impugned order on the following grounds of appeal:

"1. The order of the Id. CIT(A) is bad in law and on facts.

2. The Id. CIT(A) erred in not considering the rectification application when the rights of rectification were transferred to him which was filed within the time limit.

3. The learned CIT(A) erred in not considering my rectification application for requesting allowances of depreciation which has been disallowed by CPC 5. CIT(A) erred in not considering CBDT circular no.14 dated 1955.

4. The appellant reserves the right to add, alter and omit all or any of the grounds of appeal with the permission of the Hon'ble appellate authority."

2. Succinctly stated, the assessee had e-filed his return of income for A.Y 2010-11 on 14.10.2010 declaring an income of Rs.3,07,150/-. The return of income filed by the assessee was processed u/s.143(1) of the Act wherein his claim for depreciation of Rs.4,67,247/- was not considered.

3. Aggrieved the assessee had filed a rectification application u/s.154 of the Act on 31.01.2018. As the rectification application was filed by the assessee beyond the stipulated time period of four years from the end of the financial year in which the order sought to be amended was passed, therefore, on the said count itself the same was dismissed by the A.O vide his order dated 18.07.2018.

4. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals) but without any success.

5. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before me. As the assessee appellant despite having been intimated about the hearing of appeal had failed to put up an appearance before me, therefore, I am constrained to proceed with and dispose off the appeal as per Rule 24 of the Appellate Tribunal Rules, 1963, i.e, after hearing the respondent revenue and perusing the orders of the lower authorities.

6. As is discernible from the orders of the lower authorities the assessee had filed a rectification application u/s.154 of the Act on 31.01.2018 i.e. much after lapse of four years from the end of the financial year in which intimation u/s.143(1) of the Act dated 13.12.2010 was issued by the A.O. As the aforesaid application was filed by the assessee u/s.154 of the Act beyond the stipulated time

period as provided in sub-section (7) of Section 154 of the Act, therefore, in my considered view the same was rightly held by the A.O as not maintainable. For the sake of clarity sub-section (7) of Section 154 of the Act is culled out as under:

“(7) Save as otherwise provided in section 155 or sub-section (4) of Section 186 no amendment under this section shall be made after the expiry of four years [from the end of the financial year in which the order sought to be amended was passed].

7. I, thus, finding no infirmity in the orders of the lower authorities who had rightly dismissed/sustained the dismissal of the application filed by the assessee u/s.154 of the Act uphold the same.

8. In the result, appeal of the assessee is dismissed in terms of my aforesaid observations.

Order pronounced in open court on 17th day of April, 2023.

Sd/-

(रवीश सूद / RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 17th April, 2023.

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आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “एक-सदस्य” बेंच,
रायपुर / DR, ITAT, “SMC” Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव /Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur