

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
ITA No. 151/SRT/2023 (AY: 2016-17)  
(Hearing in Virtual Court)

Mohammedaltaf Abdulkadar Memon, 4/4478 Taiyabi Street, Zampa Bazar, Surat-395003. <b>PAN: AHZPM 3224 E</b>	Vs.	I.T.O. Ward- 2(2)(1), Surat & DCIT, CPC Bangalore)
<b>APPELLANT</b>		<b>RESPONDEDNT</b>

Assessee by	Shri Sapnesh Sheth, CA
Department by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	28/02/2023
Date of hearing	27/06/2023
Date of pronouncement	27/06/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals) [in short the Id. CIT(A)] dated 11/01/2023 for the Assessment Year (AY) 2016-17. The assessee has raised following grounds of appeal:-

- “1. *On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A),NFAC has erred in confirming the rectification order passed u/s 154 of the Act by DCIT, CPC, Bengaluru.*
2. *On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A),NFAC has erred in confirming the action of DCIT, CPC. In disallowing depreciation expense of Rs. 40,06,642/- while processing return of income filed by assessee.*

3. *On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A),NFAC has erred in confirming the action of DCIT, CPC in charging interest of Rs. 1,19,400/- u/s 234B and of Rs. 44,043/-, 234C of the I.T. Act respectively.*
  4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*
2. Brief facts of the case are that the assessee is engaged in the business of transportation services, filed his return of income for A.Y. 2016-17 declaring income at Rs. 16,47,750/- on 17/10/2016. The return was processed by the Central Processing Centre, (C.P.C.), Bangalore under Section 143(1) of the Income Tax Act, 1961 (in short, the Act). The C.P.C. Bangalore while processing the return of income, not allowed deduction of depreciation of Rs. 40,06,642/- on vehicles. The assessee filed application for rectification under section 154 dated 11/10/2018. The request/application for rectification was turn down/dismissed vide intimation dated 11/12/2018. In the reasons for rectification, the C.P.C. intimated that depreciation is not allowed for block of asset which is fully disposed off/ceased to exist and capital gain/loss claimed against the block of asset. System has correctly computed income as per details entered by assessee in the ITR-4.
3. Aggrieved by the rejection of application under Section 154, dated 11/10/2018 the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed detailed statement of fact and submission. In the submission, the assessee submitted that the Assessing Officer grossly

erred in making adjustment by not allowing depreciation. The assessee is engaged in transportation services. The assessee owned various vehicles for its business activities. The assessee claimed depreciation on tempo @ 30%. Nature of business of assessee is reflected in para (10) of audit report. The CPC erred in not allowing deduction of depreciation of Rs. 40,06,642/- on such vehicle. The C.P.C. allowed depreciation to the extent of Rs. 66,147/- against Rs. 40,72,816/-. No reason is given for such disallowance. The assessee also furnished copy of tax audit report under Section 44AB of the Act alongwith its all annexures.

4. The Id. CIT(A) after considering the submission of assessee held that the rectification claimed by assessee in the order of C.P.C. is outside the purview of Section 154 of the Act. The claim of assessee in application under section 154 was debatable and was not a mistake apparent from the record. Further aggrieved, the assessee has filed present appeal before the Tribunal.
5. We have heard the submissions of learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Id. Sr. DR) for the revenue and perused the record carefully. The Id. AR of the assessee submits that the assessee is in the business of transportation services. The Id. AR of the assessee invited our attention on para 18 of audit report which deals with details of depreciation, which is extracted below:

18/ Particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the:-										
Description of Block of Assets/Class of Assets	Rate of depreciation (In Percentage)	Opening WDV (A)	Additions				Deductions (C)	Depreciation Allowable (D)	Written Down Value at the end of the year (A+B-C-D)	
			Purchase Value (1)	MOD-VAT (2)	Change in Rate of Exchange (3)	Subsidy/Grant (4)				Total Value of Purchases (B) (1+2+3+4)
Plant & Machinery @ 30%	30%	8708722	7158680	0	0	-1250580	5908100	1261355	4006642	9348825
Plant & Machinery @ 15%	15%	441161							66174	374987

\* For Addition and Deduction Details refer Addition and Deduction Detail Tables At the End of the Page

6. The Id AR by refereeing the contents of afforesaid details submits that the assessee is eligible for depreciation of Rs. 40,06,642/-. The Id. AR of the assessee further submits that similar disallowance/adjustment was made in A.Y. 2014-15 by CPC, while processing the return under section 143(1). However, on appeal before the Id. CIT(A), the assessee was allowed fully/depreciation @ 30% in its order No. ITBA/NFAC/S/250/2022-23/1049273171(1) dated 31/01/2023. The Id. AR of the assessee submits that the assessee is eligible for depreciation which has been wrongly disallowed by the C.P.C. The disallowance of depreciation could only be made by selecting the return of income for complete scrutiny.
7. On the other hand, the Id. Sr. DR for the revenue supported the orders of C.P.C. as well as the Id. CIT(A), NFAC. The Id. Sr. DR for the revenue submits that prayer made in application under Section 154 of the Act was beyond the scope of rectification as the same is debatable issue. The assessee was required to file appeal against the original intimation of CPC. In rejoinder submissions, the Id AR for the assessee submits that the

assessee has both the option available under law, either to filed appeal against the initial intimation or to file appeal before Id CIT(A).

8. We have considered the submissions of both the parties and have gone through the orders of lower authorities. We find that the C.P.C. while processing the return of income, not allowed depreciation claimed by the assessee in its computation of income. The application filed under Section 154 of the Act was also rejected vide order dated 01/12/2018. The Id. CIT(A) not allowed the relief to the assessee by taking a view that Section 154 of the Act permits only rectification of mistake which is apparent from record. We find that the C.P.C. while making adjustment/not allowed depreciation and committed mistake which was amenable to rectification within the scope of section 154. We also agree with the submissions of Id AR for the assessee that he has remedy available with him either to file application under section 154 or to file appeal before Id CIT(A). Thus, objection raised by Id CIT(A) is not correct. We further find that similar disallowance / adjustment was made by CPC in AY 2014-15, however, on appeal before Id CIT(A) the assessee was allowed relief to the assessee. Thus, considering the facts and circumstance of the facts, we are of the view that adjustment/ disallowance of depreciation made by C.P.C. is not correct/ in accordance with the language employed in section 143(1)(a), therefore, we direct the assessing officer to allow depreciation as claimed

by the assessee in his return of income. In the result, the grounds of appeal raised by the assessee are allowed.

9. In the result, this appeal of assessee is allowed.

Order pronounced on 27/06/2023 in open court.

Sd/-  
**(Dr. ARJUN LAL SAINI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 27/06/2023

*\*Ranjan*

Copy to:

1. Assessee –
2. Revenue -
3. CIT
4. DR
5. Guard File

By Order

Sr. Private Secretary, ITAT Surat