

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 07/RPR/2023  
निर्धारण वर्ष / Assessment Year : 2015-16

Vishnu Prasad Goyal  
Kanha Tyres, Manikpur,  
Near Bilaspur Chowk,  
Ambikapur, Chhatisgarh-497 001  
PAN : AGOPG0725A

.....अपीलार्थी / Appellant

**बनाम / V/s.**

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

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nilesh Jain, CA  
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 14.08.2023

घोषणा की तारीख / Date of Pronouncement : 18.08.2023

**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 arises from the order passed by the A.O under Sec. 143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 29.12.2017 for the assessment year 2015-16. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in deciding the appeal against order passed u/s.154 of the Income-tax Act, 1961 without deciding the quantum appeal against order passed u/s. 143(3) of the Act.

2) In the facts and circumstances of the case, the ld. Assessing Officer has erred in seeking approval of Additional Commissioner of Income-tax, Range-Korba for issuing notice u/s 154 of the Income-tax Act, 1961 which effectively tantamount to issuing notice at the instance/dictates.

3) In the facts and circumstances of the case and in law, the learned Assessing Officer has erred in applying provisions of section 115BBE of the Income-tax Act, 1961 and creating total demand of Rs.31,94,494/-.

4) The impugned order is bad in law and on facts.

5) The appellant reserves the right to addition, after or omit all or any of the grounds of appeal in the interest of justice.”

2. Succinctly stated, the assessee had filed his return of income for A.Y. 2015-16 on 26.12.2015, declaring an income of Rs.2,65,600/-. The

assessment was framed by the A.O u/s.143(3) of the Act dated 29.12.2017, wherein, after making an addition of Rs.75.50 lacs u/s.69 of the Act, the income of the assessee was determined at Rs.78.15 lacs (approx.).

3. The A.O., thereafter, vide his order passed u/s.154 of the Act dated 02.11.2018, rectified the assessment order. The A.O. observed that though the tax on the assessed income was to be computed as per the special tax rate of 30% as contemplated u/s.115BBE of the Act, the same inadvertently remained omitted to be done and was calculated as per the standard rates. Accordingly, the A.O., based on his observations above, raised a demand of Rs.25.79 lacs (approx.) in the hands of the assessee.

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

5. The assessee, being aggrieved with the order of the CIT(Appeals), has carried the matter in appeal before us.

6. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on records.

7. Shri Nilesh Jain, Ld. Authorized Representative (for short 'AR') for the assessee has assailed the order passed by the CIT(Appeals) on twofold grounds, viz. (i) that the CIT(Appeals), NFAC had erred in disposing the

appeal filed by the assessee against the order u/s.154 of the Act dated 02.11.2018 without deciding the quantum appeal that was pending before him against the order passed by the A.O u/s. 143(3) of the Act, dated 29.12.2017; and (ii) that the CIT(Appeals) had erred in failing to appreciate that now when the A.O had issued notice u/s.154 of the Act after obtaining approval of the Addl. CIT, Range-Korba, therefore, there was an invalid assumption of jurisdiction on his part.

8. Per contra, the Ld. Departmental Representative (for short 'DR') relied on the orders of the lower authorities.

9. We have thoughtfully considered the contentions of the Ld. AR and are unable to persuade ourselves to subscribe to the same. Apropos the claim of the Ld. AR that the CIT(Appeals), NFAC had grossly erred in disposing of the appeal filed by the assessee against the order passed u/s.154 of the Act dated 02.11.2018 without first deciding the quantum appeal that was pending with him against the order passed u/s.143(3) dated 29.12.2017; we do not find any substance in the same. Nothing has been brought to our notice as to why the CIT(Appeals) could not have independently disposed of the appeal filed by the assessee against the order passed u/s.154 of the Act.

10. On a perusal of the records, it transpires that the assessee, in his appeal against the order passed by the A.O u/s.154 of the Act dated

02.11.2018, has assailed the charging of tax by the A.O as per special rate contemplated u/s.115BBE of the Act. On the other hand, the assessee, in his appeal against the order passed u/s.143(3) of the Act dated 29.12.2017, had assailed the addition made by the A.O u/s.69 of the Act of Rs.75.50 lacs (supra). In our view, if the assessee's quantum appeal is decided in his favor at any stage, then the order passed by the A.O u/s.154 of the Act as upheld by the CIT(Appeals) would fall to the ground and be rendered redundant. On the other hand, if the quantum appeal is decided against the assessee, then the order passed by the CIT(Appeals) confirming the A.O's order u/s.154 of the Act would hold the ground. To sum up, we are unable to comprehend as to on what basis the disposing of the assessee's appeal against the order passed u/s.154 of the Act by the CIT(Appeals) would prejudice the interest of the assessee. Thus, in terms of our observation above, finding no infirmity in disposing of the assessee's appeal against the order passed u/s.154 of the Act dated 02.11.2018 by the CIT(Appeals), we uphold his order. Thus, the **Ground of appeal No.1** raised by the assessee is dismissed in terms of our observations above.

11. Apropos, the contention of the Ld. AR that the A.O. had grossly erred in issuing notice u/s.154 of the Act after seeking approval of the Addl. CIT, Range-Korba, we find no substance in the same. On a specific query by the Bench about restriction placed upon an A.O. in seeking instruction/guidelines from the Addl. CIT either at the initiation stage or

while passing an order u/s 154 of the Act, the Ld. AR failed to come forth with any reply.

12. On a perusal of Section 154 of the Act, it transpires that the same therein contemplates that the income tax authority referred to in Section 116 may, to rectify any mistake apparent from the record, inter alia, amend any order passed by it under the provision of the Act. Nothing is discernible therefrom, which jeopardizes the power of the A.O. in rectifying mistakes apparent from the record after seeking any instruction/guidance from a superior authority. As the contention of the Ld. AR is devoid and bereft of any force of law; therefore, the same is dismissed. Thus, the **Ground of appeal No.2** raised by the assessee is dismissed in terms of our observations above.

13. As the Ld. AR had not advanced any contention concerning **Ground of Appeal No.3**; therefore, the same is dismissed as not pressed.

14. **Grounds of appeal Nos. 4 and 5**, being general in nature, are dismissed as not pressed.

15. In the result, the assessee's appeal is dismissed in terms of our observations above.

Order pronounced in open court on 18<sup>th</sup> day of August 2023.

Sd/-  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**RAVISH SOOD**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 18<sup>th</sup> August, 2023  
SB

**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, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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