

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1039/Bang/2023
Assessment Year : 2021-22

M/s. Prazim Trading and Investment Company Private Limited, 574, Next to Wipro Corporate Office, Sarjapur Road, Doddakkanelli, Bengaluru – 560 035. PAN : AAACP 4921 G	Vs.	DCIT, Circle – 3(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. B. K. Manjunath, CA
Revenue by	:	Shri. Subramanian S, Addl. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	02.05.2024
Date of Pronouncement	:	24.06.2024

ORDER

Per Keshav Dubey, Judicial Member :

This appeal at the instance of the assessee is directed against the order of CIT(A)/NFAC order dated 26.10.2023 by DIN No.ITBA/NFAC/S/250/2023-24/1057400979(1), passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’) for the Assessment Year 2021-22.

1. The assessee has raised the following grounds:

1. *That the National Faceless Appeal Centre ('NFAC') has erred in dismissing the appeal filed by the Appellant vide Order dated 26.10.2023 passed u/s 250 of the Income-tax Act, 1961 ('the Act').*

2. *That the NFAC erred in not rectifying the mistakes apparent from the record in the Order dated 10.01.2023 passed u/s 154 of the Act by the Centralized Processing Center, which mistake was continuing from the intimation u/s 143(1) of the Act, being an erroneous addition of Rs. 4,93,34,784/- by the IT portal and imputing the same amount as income under the head "profits and gains of business or profession", even when the Appellant had no income under the said head.*
3. *These grounds are without prejudice to each other.*
4. *The Appellant craves leave to add, modify, or withdraw any of the above grounds of appeal.*

2. Brief facts of the case are that the assessee company is engaged in the investment activities such as investment in listed shares, debt mutual funds, Alternative Investment Funds (AIF). The main source of Income are in the nature of dividend, capital gains/loss, interest income and share of income from investment in AIF. The Assessee Company filed its return of income for the Assessment Year 2021-22 electronically on 15.03.2022 declaring total income of Rs.52,55,75,680/- and paid the due taxes along with interest amounting to Rs.12,87,27,475/- and claimed balance refund of Rs.28,370/-. Thereafter, the assessee received a notice under section 143(1)(a) of the Act proposing adjustment of Rs.4,93,34,784/- by alleging the particulars of the incorrect claim as “In Schedule BP, the income/receipts, reduced at Sl. No.3 and / or Sl. No.5 is higher than the income/receipts that have been credited to the Profit and Loss Account / Profit and Loss Account – Ind As”.

3. In response to the said notice u/s 143(1)(a) of the Act, the assessee filed its response by way of disagreeing with the adjustment stating that income / expenses are disclosed in schedule Part A of P & L Account, whereas in schedule BP income / expense are disclosed as allowances / disallowances. The difference of Rs.4,93,34,784/- is on account of (i) unrealized loss on mutual fund added back in Sl. No.23 of schedule BP of Rs.12,61,348/- (ii) notional interest income on

employee's receivables reduced in Sl. No. 33 of schedule BP of Rs.1,54,35,936/- (iii) Rs.6,35,09,399/- being share of expenses from investment in AIF added back and included in 8b of the schedule BP.

4. Thereafter, the assessee company was served with an intimation dated 13/11/2022 passed under section 143(1) of the Act which carried the alleged incorrect claims adjustment as proposed U/s 143(1)(a) of the Act. This adjustment was mainly attributable to the incorrect totals of Rs.37,35,79,584/- made for the two of the entries of dividend income of Rs.38,99,60,052/- and other than dividend income of Rs.3,29,54,316/-. As can be seen on Page-20 of the Intimation dated 13/11/2022 under Heading "Annexure- Business and Profession" the incorrect total amount of Rs.37,35,79,584/- is computed while processing the return u/s 143(1) under SL No.3(C) "Other Sources" instead of the correct total of Rs.42,29,14,368/- which resulted in the arithmetical error of Rs.4,93,34,784/-. This alleged differential amount of Rs.4,93,34,784/- has been entered as profits and gains of business / profession whereas the assessee has not declared any profit under head profits and gains of business / profession. The intimation under section 143(1) of the Act accordingly computes total income of Rs.57,49,10,416/- and determines dues of Rs.1,59,54,172/-.

Relevant extract of the CPC intimation dated 13/11/2022 is given below-

Intimation u/s 143(1)		आयकर केन्द्र CENTRALIZED PROCESSING CENTER INCOME TAX DEPARTMENT	
Name	: PRAZIM TRADING AND INVESTMENT COMPANY PRIVATE LIMITED		
PAN	: AAAC4921G	AY	: 2021-22
Ack. No.	: 374236920150322	DIN	: CPC/2122/A6/312486410
ANNEXURE - Business and Profession			
Sl.No.	Particulars	As provided by Taxpayer	Amount in ₹ As Computed u/s 143(1)
A	From business or profession other than speculative business and specified business		
1	Profit before tax as per profit and loss account (Item 53, 61(i) and 62(b) of Part A-P&L) / (Item 53 of Part A-P&L - Ind AS)	47,61,47,312	47,61,47,312
2	(a) Net profit or loss from speculative business included in 1	0	0
	(b) Net profit or Loss from Specified Business u/s 35AD included in 1	0	0
3	Income/ receipts credited to profit and loss account considered under other heads of income/chargeable u/s 115BBF/ chargeable u/s 115BGG.		
	(a) House Property	0	0
	(b) Capital Gains	32,79,57,683	32,79,57,683
	(c) Other Sources	42,29,14,368	37,35,79,584
	(i) Dividend Income	38,99,60,052	38,99,60,052
	(ii) Other than Dividend Income	3,29,54,316	3,29,54,316
	(d) u/s 115BBF	0	0
	(e) u/s 115BGG	0	0
4	Profit or loss included in 1, which is referred to in Section 44AE/ 44B/ 44BB/ 44BBA/ 44BBB/ 44D/ 44DA/ Chapter-XII-G/ First Schedule of Incometax Act (other than section 115B)	0	0
	(1) 44AE	0	0
	(2) 44B	0	0
	(3) 44BB	0	0
	(4) 44BBA	0	0
	(5) 44BBB	0	0
	(6) 44D	0	0
	(7) 44DA	0	0
	(8) Chapter XII-G	0	0
	(9) First schedule of income tax Act (other than section 115B)	0	0
	(b) Profits and gains from life insurance business referred to in section 115B	0	0
	(c) Profit from activities covered under rule 7, 7A, 7B(1), 7B(1A) and 8	0	0
	(1) Profit from activities covered under rule 7	0	0
	(2) Profit from activities covered under rule 7A	0	0
	(3) Profit from activities covered under rule 7B(1)	0	0
	(4) Profit from activities covered under rule 7B(1A)	0	0
	(5) Profit from activities covered under rule 8	0	0
5	Income credited to Profit and Loss account (included in 1) which is exempt		
	(a) share of income from firm(s)	0	0
	(b) Share of income from AOP/ BOI	0	0
	(c) Any other exempt income. (specify nature and amount)	0	0
6	Balance (1 - 2a - 2b - 3a - 3b - 3c - 3d - 3e - 4 - 5d)	-27,47,24,739	-22,53,89,955
7	Expenses debited to profit and loss account considered under other heads of income/related to income chargeable u/s 115BBF/or u/s 115BGG		
	(a) House Property	0	0

5. Aggrieved by the aforesaid intimation passed U/s 143(1) of the Act, the assessee preferred a rectification application on 02.01.2023 as per the provisions contained in section 154 of the Act. Thereafter, after examining the Assessee's request and the said intimation U/s 143(1) of the Act, the Asst. Director of Income Tax, CPC, Bengaluru has passed an Order U/s 154 of the I. Tax Act, 1961 however the above mentioned arithmetical error in the original intimation has been retained in the order passed under section 154 of the Act and further increased the demand to Rs.1,60,91,070/- by adding interest under section 234B of the Act for the period up to the issuance of the order under section 154 of the Act.

6. Aggrieved by the order passed under section 154 of the Act, the assessee preferred an appeal before the CIT(A) / NFAC who dismissed the appeal on the ground that the issue in the impugned order passed under section 154 of the Act will not fall into the category of mistake apparent from record and thus is not rectifiable. Further Ld. CIT(A) was of the view that Section 154 of the Act pertains to rectification of mistakes in income tax Orders & this section provides authority to correct errors or mistakes in any order passed by an Income tax authority either on its own motion or on an application made by the tax payer and accordingly rejected the grounds of appeal of the assessee.

7. Aggrieved by the order of the Ld. CIT(A), the assessee has filed the present appeal before the Tribunal. Further the Assessee has filed a Paper Book enclosing therein copies of Screenprint of View responses for e-proceedings IT Portal - adjustment u/s 143(1)(a), Copy of Intimation u/s 143(1) of the Act dated: 19/08/2023 passed by CPC, Bangalore, Statement showing Computation of Total Income as per ITR and as per P/L, Rectification order u/s 154 of the Act dated: 10/01/2023 passed by CPC, Bangalore, Audited Financial Statements, copy of Income tax return in ITR-6 filed by the appellant.

8. Before us, learned AR vehemently submitted that the assessee company is solely an investment company and having no business income at all. However, for such type of special companies no separate return of income has been prescribed and accordingly the assessee company has to file ITR 6 which is applicable for all the companies in general. The AR of the assessee also argued that no additions on this account had existed in the past. Further due to the bonafide apparent mistake in feeding the data in IT return which are on the face of the record and not a debatable issue & there being no impact on overall income of the company, the CIT(A) erred in rejecting the appeal. Further the AR of the Assessee submitted that the Department must not take advantage of unintentional mistake or ignorance of the Assessee. The Ld AR of the assessee also relied on the decision of Hon'ble ITAT in the case of Koomber Properties and Leasing Co. (P) Ltd., Vs. DCIT in ITA No.1250/Kol/2023 dated 19.03.2024 passed for Assessment Year 2018-19.

9. The Id. DR on the other hand supported the order of the authorities below and submitted that assessee had committed error in filling the data in ITR which resulted in mistake being committed and the same was pointed out when the notice under section 143(1)(a) of the Act was received for the proposed adjustment. The assessee failed to file any revised return. Therefore, such mistake cannot be rectified under the provisions contained under section 154 of the Act.

10. We have heard the rival submissions and gone through the record carefully. It is a undisputed fact that the appellant had committed errors in feeding the data in ITR which resulted in the mistake being committed as also observed by the Learned CIT(A). Further, it is also undisputed that the Arithmetical error is also committed by the Ld. Asst. Director of I. Tax, CPC, Bengaluru while passing the

intimation U/s 143(1) dated 13/11/2022 as can be seen from the above screenshot. (Page-20 of the Intimation under Heading “Annexure- Business and Profession” the incorrect total amount of Rs.37,35,79,584/- is computed u/s 143(1) under SL No.3(C) “Other Sources” instead of the correct total of Rs.42,29,14,368/- resulted in the arithmetical error of Rs.4,93,34,784/-. This alleged differential amount of Rs.4,93,34,784/- has been entered as profits and gains of business / profession.) On Perusal of the CIT(A) findings would reveal that the First Appellate Authority has not gone through the real controversy. The CIT(A) has reproduced section 154 of the Act as well as various circulars and observed that the order under section 154 of the Act pertains to rectification of mistakes in the income tax orders. This section provides authority to incorporate errors or mistakes in any order passed by income tax authorities either on its own motion or on an application made by tax payer. Therefore, the CIT(A) concluded that change in the income due to the entries of unrealized loss, interest income on employees receivable and share of expenses in AIF would require verification and analysis of profit and loss account and balance sheet. Further, the CIT(A) was also not clear how these entries have affect the figures as pointed out by the AO/CPC under section 143(1)(a) of the Act. In the present case, no doubt the technical error was committed by the assessee in feeding the data in ITR which resulted in mistake being committed but while processing the return that error would also fall within the ambit of the apparent error on record. Not only the mistakes can be rectified which has been committed by the AO, but any mistakes committed also by the assessee while filing the return of Income would also be taken into consideration which are apparent on the face of the record. Section 154 of the Act, starts “with a view to rectifying **any mistake** apparent from the record an income tax authority referred to in section 116 may –

- (a) amend any order passed by it under the provisions of this Act;

- (b) amend any intimation or deemed intimation under sub-section (1) of section 143;
- (c) amend any intimation under sub-section 200A;
- (d) amend any intimation under sub-section (1) of section 206CB

11. Therefore, Section 154 of the Act emphasis that in order to rectify any mistake apparent from the record, the provision of section 154 of the Act can be invoked. The errors which are mistakes apparent from the record may be committed either by assessee or by the Income Tax Authority. We find that it is just a technical error committed by the assessee while feeding the data in the return and there has been no impact on the total income declared by the assessee. The mistakes are clearly apparent on the face of the record. The explanation filed by the assessee in response to notice under section 143(1)(a) of the Act are self explanatory and the same is rectifiable under section 154 of the Act as it is not a debatable issue. We are of the opinion that there being clerical, technical and/or arithmetical error both by the Assessee as well as by the revenue which are not debatable would certainly amount to mistake apparent from the record.

12. Further, we are also of the opinion that the Ld. Asst. Director of I. Tax, CPC, Bengaluru while passing the intimation U/s 143(1) dated 13/11/2022 as can be seen from the above screenshot on Page-20 of the Intimation under Heading “Annexure- Business and Profession” put the incorrect totals of Rs.37,35,79,584/- as computed u/s 143(1) under SL No.3(C) “Other Sources” instead of the correct total of Rs.42,29,14,368/- which resulted in the arithmetical error of Rs.4,93,34,784/-. This mistaken amount of Rs.4,93,34,784/- has been entered as profits and gains of business / profession. As this also being a Arithmetical mistake apparent on the face of the record, obvious and glaring, the mistake is rectifiable under the provision contained in Section 154 of the I Tax Act, 1961.

13. Therefore, the AO is directed to verify the correct claims as made by the Assessee & to decide the issue as per the provisions contained under section 154 of the Act. Needless to say, that reasonable opportunity of being heard must be granted to the Assessee. The assessee is also directed to produce the necessary reconciliation along with the supporting documents/evidences to substantiate its claim. Accordingly the issue in dispute is remitted to the file of AO for fresh consideration as per the Law.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(KESHAV DUBEY)
Judicial Member

Bangalore.

Dated: 24.06.2024.

/NS/*

Copy to:

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.