

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

<b>ITA No. 448/Bang/2024</b>
<b>Assessment Year : 2019-2020</b>

M/s. G I Auto Pvt. Ltd., No. 628/A, 2 <sup>nd</sup> Floor, 1 <sup>st</sup> Stage, Indiranagar, Bangalore – 560 038. <b>PAN: AAACG7516L</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Circle – 3(1)(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Anil Kumar, CA
Revenue by	:	Smt. Neha Sahay, JCIT-DR

Date of Hearing	:	27-08-2024
Date of Pronouncement	:	28-08-2024

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 06/02/2024 passed by NFAC, Delhi for A.Y. 2019-20.

**2. Brief facts of the case are as under:**

**2.1.** It is submitted that the assessee filed its return of income for Asst Year 2019-20 on 01-11-2019 at 00.08 AM after experiencing difficulties in uploading the ITR — 6 on the due date viz. 31-10-2019.

**2.2.** It is submitted that subsequently, a communication u/s. 143(1)(a) dated 26-2-2020 was received proposing following adjustments:

Under Section 143(1)(a)(iv) / 143(1)(a)(ii)

Amount disallowable u/s 36(1)(va)	Rs. 46,520
Amount disallowable u/s 43B	Rs. 56,00,000

Under Section 143(1)(a)(ii)

Disallowance of deduction claimed u/s 80JJAA as return filed after due date	Rs. 16,72,686
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73,19,206

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**2.3.** In response to the same a revised tax audit report was submitted by the assessee on 10-03-2020 and appropriate response was furnished regarding each item of the proposed adjustment.

**2.4.** The return was then processed u/s. 143(1) and intimation dated 08-05-2020, without considering the response and Rs. 73,19,206 was added to the returned income raising a demand of Rs. 18,87,326.

**2.5.** The assessee then immediately filed a rectification application on 24/02/2021 and same was processed on 03/04/2021 by restricting disallowances as under:

Disallowable u/s 36(1)(va)	Rs. 46,520
Disallowance of deduction claimed u/s 80JJAA	Rs. 16,72,683
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	17,19,203
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Aggrieved by the rectification order dated 03/04/2021, assessee preferred appeal before the Ld.CIT(A).

**2.6.** The Ld.CIT(A) dismissed the claim of the assessee by observing as under:

*“4.2 In this case, the CPC had made disallowance u/s 36(1)(va) of the I.T Act to a sum of Rs. 46,520/- and disallowance of deduction claimed u/s 80JJAA to a sum of Rs. 16,72,683/-during the year under consideration while processing the return u/s 143(1). The appellant could have filed an appeal against the intimation u/s 143(1) as per the provisions of the Act. However, it appears that the appellant has not filed an appeal against the intimation u/s 143(1). Thereafter, the appellant has filed an application u/s 154 before the CPC which has been rejected and hence the appellant has filed the present appeal against the order u/s 154. In this regard, it is stated that the original cause of action in the present case had arisen at the stage of the proceedings u/s 143(1) and not u/s 154. The appellant is trying to make a back door entry by filing an appeal against the order u/s 154, the original cause of action for which had arisen at an earlier point of time during the proceedings u/s 143(1). Therefore, as the original cause of action has arisen at the stage of 143(1), the issue cannot be adjudicated upon in the present appeal and further there is no mistake apparent from record at the stage of 154. Therefore, the grounds of appeal are dismissed.”*

We have perused the submissions advanced by both sides in the light of records placed before us.

**3.** It is noted that the original return was processed u/s. 143(1)(a) on 08/05/2020, making various disallowance along with disallowance u/s. 36(1)(va), disallowance of deduction claimed u/s. 80JJAA of the act. The assessee filed rectification application u/s. 154 on 24/02/2021 which was partly accepted. In our view the Ld.CIT(A) should have considered the claims of assessee on merits of the additions that were retained in the order u/s. 154 of the act. In our view, the assessee has not committed any error by filing a rectification petition against the original intimation issued u/s. 143(1) dated 08/05/2020.

**3.1.** We therefore in the interest of justice, remand the issue back to the Ld.AO to consider the claims of the assessee on the above two issues in accordance with law having regard to the evidences filed by the assessee. Needless to say that proper opportunity of being heard must be granted to the assessee in accordance with law.

**Accordingly, ground nos. 4 – 6 (a) to (b) stands allowed for statistical purposes.**

**4.** In respect of **ground nos. 1-3**, we are not inclined to express any opinion at this stage considering the smallness of the addition. It is kept open for the assessee to be raised in an

appropriate circumstances if required before an appropriate forum.

**In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.**

**Order pronounced in the open court on 28<sup>th</sup> August, 2024.**

Sd/-  
(WASEEM AHMED)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 28<sup>th</sup> August, 2024.  
/MS /

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

By order

Assistant Registrar,  
ITAT, Bangalore