

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUDHIR KUMAR, JUDICIALMEMBER**

**ITA No.1872/DEL/2024
(ASSESSMENT YEAR : 2022-23)**

PVR Inox Limited,
7th Floor, Lotus Grandeur Building,
Veera Desai Road, Opp. Gundecha Symphony,
Andheri Mumbai Azad Nagar, S.O. (Mumbai)
Mumbai – 400 053 (Maharashtra).

vs.

DCIT, Central Circle,
New Delhi.

(PAN: AAACP4526D)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri S.K. Aggarwal, CA
REVENUE BY : Ms. Rajinder Kaur, CIT DR

Date of Hearing : 05.11.2024
Date of Order : 14.11.2024

ORDER

PER S. RIFAUH RAHMAN, AM :

1. This appeal is filed by the assessee against the order of ld. Commissioner of Income-tax (Appeals), Chandigarh/National Faceless Appeal Centre (NFAC) (hereinafter referred to 'Ld. CIT (A)') dated 23.02.2024 for Assessment Year 2022-23.
2. At the time of hearing, ld. AR for the assessee submitted that the appeal

preferred by the assessee before the Id. CIT (A) against the intimation order passed under section 143 (1) of the Income-tax Act, 1961 (for short 'the Act'). He submitted that the assessee is following a method of net revenue in its financial statement i.e. assessee records net sales as its revenue (gross sales minus GST). The same was disclosed in the audit report filed along with return of income and CPC has replaced the gross revenue with net revenue declared by the assessee by referring to audit report filed along with return of income. He brought to our notice page 26 of the paper book which is the intimation passed u/s 143 (3) of the Act wherein the loss was reduced to the extent of GST amount which was not declared as revenue in the books of account.

3. Aggrieved with the above, assessee filed a rectification application u/s 154 of the Act before the CPC. At the same time, assessee also preferred an appeal before the Id. CIT (A). While appeal before the Id. CIT (A) was pending, the rectification order was passed by the CPC dated 10.07.2023 accepting the submissions of the assessee and accordingly, rectified the discrepancies. However, the assessee failed to intimate the same to Id. CIT (A) and also failed to withdraw the appeal considering the fact that there is no grievance left to the assessee.
4. In the meantime, Id. CIT (A) has passed the impugned order dated

23.02.2024 by allowing the GST amount to the extent of input tax credit of Rs.77,91,27,154/- and sustained the addition of Rs.21,26,77,723/- as not paid after duly collecting the taxes u/s 43B of the Act. Ld. AR prayed that the order passed by the ld. CIT (A) is not proper. Considering the facts on record, he submitted that the mistake apparent on record already rectified by the CPC and there is no grievance to the assessee. Now ld. CIT (A) has passed this order, therefore, assessee found it appropriate to file the appeal before the ITAT for legal remedy.

5. On the other hand, ld. DR for the Revenue submitted that the assessee has not intimated the rectification passed u/s 154 of the Act to the ld. CIT (A) and also once the appeal has become infructuous, it is the duty of the assessee to withdraw the same and she relied on the findings of ld. CIT(A).
6. Considered the rival submissions and material placed on record. We observed that the grievance of the assessee was already addressed by the CPC by rectifying the mistake apparent on record u/s 154 of the Act. Against the original intimation order u/s 143 (1) of the Act, assessee has preferred an appeal before the ld. CIT (A) and once the grievance of the assessee is already addressed by the CPC by rectifying the same u/s 154 of the Act, the appeal filed before first appellate authority becomes infructuous. It is fact on record that assessee has failed to withdraw the appeal but, in the

meantime, ld. CIT (A) has adjudicated the issue based on the information available on record. Basically, he has accepted the fact that GST amount was not to be added in the hands of the assessee. However, he proceeded to sustain the addition to the extent of non-payment of GST u/s 43B of the Act. However, this is not the issue contested by the assessee before the ld. CIT(A). Leaving that as it may, the grievance raised by the assessee before the ld. CIT (A) was already addressed by the CPC by rectifying the order passed u/s 154 of the Act, there is no grievance to the assessee. Therefore, the impugned order passed by ld. CIT (A) becomes infructuous. Accordingly, we direct the Assessing Officer not to proceed with the order giving effect to the findings of ld. CIT (A).

7. In the result, the appeal filed by the assessee before us also becomes infructuous. Accordingly, the appeal filed by the assessee is dismissed as infructuous with the above observation and direction to the lower authorities.

Order pronounced in the open court on this 14th day of November, 2024.

**Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated : 14.11.2024
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI