

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 1146/Del/2024  
Assessment Year 2021-22

<b>Real Height Developers Pvt. Ltd.</b> House No.78L, Model Town Panipat, Haryana - 132 103	Vs.	<b>DCIT</b> Range-44, Circle – 19(1), Delhi (ADIT, CPC, Bengaluru) New Delhi – 110 002
<b>TAN/ PAN : AAGCR 5941 J</b>		
(Appellant)		(Respondent)

Applicant by:	Shri Gagan Kumar, Adv. and Shri Gagandeep, Adv.		
Respondent by:	Ms. Harpreet Kaur Hansra, Sr. D.R.		
Date of hearing:	19	12	2024
Date of pronouncement:	19	12	2024

**ORDER**

**PER PRADIP KUMAR KEDIA - A.M.:**

The captioned appeal arises from the First Appellate order passed by the Commissioner of Income Tax (Appeals) - NFAC, Delhi ('CIT(A)' in short) under section 250 of the Income Tax Act, 1961 ('the Act') dated 17.01.2024 which in turn arises from the rectification order dated 13.12.2022 passed by the Assessing Officer (AO) under Section 154 of the Income Tax Act, 1961 ('the Act') concerning A.Y. 2021-22 in question.

2. As per the grounds of appeal, the assessee has challenged the order passed by the CIT(A) denying relief towards claim of deduction under section 80IB(10) of the Act.

3. When the matter was called for hearing, the learned Counsel for the assessee pointed out that the assessee, in the instant case, claimed deduction under section 80IB(10) of the Act in accordance with law for which Form No.10CCB was filed, as required. However, the prescribed Form 10CCB was filed on 30.09.2022 as against the due date, in the instant case, on ending on 15.03.2022 being the last date for filing of return of income under section 139(1) of the Act. The learned Counsel submitted that in the instant case, the intimation under section 143(1) was drawn dated 25.10.2022, meaning thereby, the prescribed Form 10CCB uploaded on the e-portal was available to the CPC for the purpose of enabling it to allow deduction as claimed. The learned Counsel pointed out that although Form 10CCB was filed belatedly after due date but however, has been filed before the processing of return under section 143(1) of the Act and therefore, no prejudice was caused to the Revenue by such delay. The learned Counsel thereafter adverted to the decisions of the Co-ordinate Benches in the case of *Sindhu Resettlement Corporation Ltd. vs. DCIT ITA No.2527/Mum./2024* order dated 27.09.2024 concerning A.Y. 2022-23 and *Sanjay Kukreja vs. ACIT ITA No.652/Del/2023* order dated 30.01.2024 concerning A.Y. 2019-20 for the proposition that the requirement of filing Form 10CCB for the purposes of deduction under section 80IB(10) was read down by the Co-ordinate Benches as directory in nature rather than the mandatory requirement. Hence, the CPC, while processing the return of income, has committed mistake in not allowing deduction claimed on technical breach. The learned Counsel thus sought suitable relief in the matter.

4. The learned Sr. D.R., on the other hand, submitted at the outset that the present appellate proceedings arises from rectification order passed under section 154 of the Act and such provision carries a limited mandate in as much as only mistakes which are self-evident and manifest from the record, can be rectified in the proceedings under section 154 of the Act. Hence, no fault can

be found with the intimation passed under section 143(1) of the Act in denying the deduction claimed owing to non-fulfillment of requirement on filing prescribed form within due date available for filing ROI. The relief sought by the assessee is based on interpretation process adopted by the decision cited which cannot be applied for the purposes of rectification under section 154 of the Act. The learned Sr. D.R. thus submitted that no fault can be found with the CPC in passing impugned 154 order under challenge.

5. We have carefully considered rival submissions. In the backdrop of facts noted above, we do not see any legally sound basis to direct the AO to amend 154 order and grant deduction under section 80IB(10) of the Act as claimed. The action of the CPC under section 154 of the Act cannot be faulted on the touchstone of such provision. The section 154 of the Act enables the AO/CPC to rectify a mistake which is apparent from record and do not involve any long drawn process of reasoning to arrive at some conclusion. The plain language of the Act and attendant Rules requires the assessee to file the prescribed form for claiming deduction under section 80IB(10) of the Act within stipulated period prescribed. Admittedly, the prescribed Form has been filed in the instant case. Hence, the remedy against the denial of deduction owing to belated filing of prescribed form, may possibly lie in the appellate proceedings against the intimation drawn under section 143(1) of the Act rather than rectification order. The appellate proceeding against the rectification order passed under section 154 of the Act thus do not carry weight.

6. Having regard to the peculiar circumstances, we grant liberty to the assessee to pursue appeal against the intimation passed under section 143(1) of the Act, if so advised, within 30 days from the date of receipt of the order of the Tribunal in the present proceedings. Intervening delay arising in filing of

appeal against section 143(1) of the Act before the Competent Authority stands condoned.

7. Subject to above remarks, appeal of the assessee is dismissed *in limine*.

**Order was dictated and pronounced in the open court on 19<sup>th</sup> December, 2024**

Sd/-  
**[VIMAL KUMAR]**  
**JUDICIAL MEMBER**

Sd/-  
**[PRADIP KUMAR KEDIA]**  
**ACCOUNTANT MEMBER**

DATED: 19/12/2024

Priti Yadav, Sr. PS\*

Copy forwarded to:

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

Assistant Registrar