

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2159/Chny/2024
निर्धारण वर्ष /Assessment Year: 2016-17

SACS Power Pvt. Ltd.,
3/314, Chinthamani Road,
Rajaman Nagar Bus Stop,
Madurai – 625 009.
[PAN: AAHCS 4952P]

Vs. The Asst. Commissioner of
Income Tax,
Circle-2(1),
Trichy.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri T. Vasudevan, Advocate
: Mrs. G. Saratha, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 19.11.2024

घोषणा की तारीख /Date of Pronouncement

: 14.02.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2016-17 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 18.06.2024 in the matter of assessment framed by the Assessing Officer [AO] u/s. 143(3) r.w.s 143(3A) of the Income-tax Act, 1961 (hereinafter "the Act") on 24.12.2018.

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2. The effective ground of appeal in this appeal of assessee is against in confirming the penalty levied u/s. 271(1)© of the Act on excess claim of depreciation of Rs. 11,49,603/-.

3. The brief facts of the case are that the assessee-company has filed its return of income declaring loss of Rs.1,07,12,560/- on 15.10.2016. During the course of assessment proceedings, the A.O found that assessee has taken opening WDV as on 01.04.2015 of Rs. 4,53,34,421/- as against WDV of Rs. 3,76,00,374/- as on 31.03.2015 . The A.O accordingly computed excess claim of depreciation by assessee by Rs. 37,10,697/- and initiated penalty u/s. 271(1)© of the Act. The assessee has explained the difference in WDV due to clerical by wrongly copying WDV as per Companies Act in place of WDV as per Income tax Act. The A.O rejected the assessee's explanation and levied penalty of Rs. 11,46,605/- u/s. 271(1)© of the Act for furnishing inaccurate particulars of income. Aggrieved, the assessee filed an appeal before Ld. CIT(A). The Ld. CIT(A) has reduced the excess claim of depreciation at Rs. 11,49,603/- in quantum appeal and accordingly sustained penalty to the extent of tax sought to be evaded on Rs.11,49,603/-.

4. The Ld. Authorized Representative (A.R) of the assessee has argued that the accountant incorrectly copied WDV as per Companies

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Act , while preparing depreciation chart for income tax purposes. The Ld AR argued that this was merely a mistake which was subsequently corrected as soon as it was brought in its notice. The Ld. AR relied on the decision of Hon'ble Supreme Court in the case of Pricewaterhousecoopers Pvt. Ltd. vs. CIT 348 ITR 306 (SC), wherein it was held that penalty cannot be levied in cases of bonafide mistakes. The Ld. AR further submitted that upon noticing the incorrect claim during the course of assessment, assessee has revised the return of income for subsequent years. The Ld. AR has submitted that there was no malafide intention behind the excess depreciation, as the assessee company was already reporting a loss.

5. The Ld. Departmental Representative (DR), on the other hand, relied on the orders of lower authorities.

6. We have heard the rival submissions, and perused the materials available on record. The assessee-company has claimed depreciation of Rs. 55,47,326/- in the income tax return. The assessee , whiling computing depreciation has taken WDV as on 01.04.2015 at Rs.4,53,34,421/- instead of the correct WDV as on 31.03.2015 at Rs.3,76,00,374/-. The assessee has explained it as clerical mistake due to copying WDV as per Company Act while computing depreciation for income tax purposes. The assessee has explained

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that there is no malafide intention behind the incorrect claim, as the assessee-company was already incurring a loss, and it has revised the return of income for subsequent year correcting the WDV. We find that the A.O has levied penalty for furnishing inaccurate particulars of income on excess claim of depreciation of Rs. 37,10,697/-, which was later reduced by Ld. CIT(A) to Rs.11,49,603/-. The assessee has attributed the incorrect depreciation claim to clerical mistake in copying WDV as per Companies Act instead of the correct WDV as per income tax Act. The correct claim of depreciation was clearly reported in audit report. In light of this, the case is covered by the decision of Hon'ble Supreme Court in the case of Price Water housecoopers Pvt. Ltd. vs. CIT, supra. The penalty levied is, accordingly cancelled.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 14th February, 2025.

Sd/-
(एबी टी. वर्की)
(ABY. T. Varkey)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 14th February, 2025.

EDN/-

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF