आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2392 & 2455/PUN/2024
निर्धारण वर्ष / Assessment Year : 2018-19

Kothari Agritech Private Limited, 3rd Floor, Sunplaza, 8516/11, Subhash Chowk, Muraji Peth, Solapur North, Solapur-413001 PAN : AADCK8017H	**Vs.**	DCIT, Circle – 1, Solapur
अपीलार्थी / Appellant		**प्रत्यर्थी / Respondent**

Assessee by :	Shri Nikhil Tiwari
Department by :	Shri Ramnath P Murkunde
Date of hearing :	16-06-2025
Date of Pronouncement :	09-09-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The above two appeals filed by the assessee are directed against the separate orders both dated 19.09.2024 of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Center, Delhi **["CIT(A)/NFAC"]** pertaining to Assessment Year **("AY")** 2018-19 which has in turn arisen out of the order passed by the Ld. Assessing Officer **("AO"**) passed under section 143(3) and 154 of the Income Tax Act, 1961 ("the Act"). Since the issues involved in both the appeal are correlated therefore both the appeals were heard together and are being disposed of by this common order.

2. Briefly stated the facts are that the assessee is a company engaged in the manufacturer of a wide array of pipes and accessories for irrigation, agriculture and industrial domains. It undertakes irrigation projects by entering into agreements with state government authorities or statutory bodies created by state government authorities. For AY 2018-19, it filed its return of income on 30.10.2018 declaring total income of Rs.12,11,25,450/-. Subsequently, the assessee filed revised return of income on 31.03.2019 declaring total income at

Rs.5,22,07,920/- and claiming refund of Rs. 1,73,04,360/-. It also filed Form 10CCB and Form 10DA along with the revised ROI on 31.03.2019. The return was processed by the Centralized Processing Center **("CPC")** u/s 143(1) of the Income Tax Act, 1961 **(the "Act")** vide intimation order dated 04.11.2019 at total income at Rs.11,63,23,680/- and determining a refund of Rs.18,45,612/- *interalia* disallowing the claim of deduction under section 80IA of the Act for the reason that Form 10CCB was not filed within the due date. The assessee being aggrieved by the said intimation order, filed an application for rectification u/s 154 of the Act before the Ld. Jurisdictional Assessing Officer **("JAO")**. Subsequently, the case of the assessee was selected for scrutiny under CASS, amongst others for the reason – (a) Reason for revising the return and claim of refund and (b) Deduction claimed under section 80-IA of the Act. Statutory notice(s) were accordingly issued and duly served upon the assessee.

2.1 During the course of assessment proceedings, the Ld. Faceless Assessing Officer **("FAO")** specifically asked the assessee various details regarding the said deduction claimed u/s 80IA of the Act, in response to which the assessee filed its reply citing reasons for allowability of the same on factual and technical grounds. The Ld. FAO completed the assessment under section 143(3) read with section 143(3A) & 143(3B) of the Act vide his order dated 08.03.2021 at the assessed income of Rs.11,68,26,650/- by making an addition of Rs.5,02,970/- on account of disallowance under section 14A read with Rule 8D, to the income of Rs.11,63,23,680/- determined as per order under section 143(1)(a) of the Act. However, no disallowance under section 80IA was made by the Ld. FAO while passing the assessment order. With regard to assessee's claim of deduction under section 80IA, the order of the Ld. FAO merely states as under:

> *"2. In this case one of the issue for selection is deduction claimed for Industrial Undertaking u/s. 801A/801AB/801AC/IB/IC/IBA/80ID/ 80IE/10A/10AA. It seen from the records that the assessee has claimed deduction of Rs.5,80,64,205/- u/s.801A and Rs.1,08,53,325/-u/s 80JJA of the Income Tax Act, 1961. A clarification letter was issued to the assessee on 12.02.2021 requesting the assessee to submit the details to verify the conditions for eligibility for claim of deduction. In response to the clarification letter dated 12.02.2021 the assessee company upload its reply vide letter dated 22.02.2021. The submission of the assessee on the above point is thoroughly examined and perused."*

2.2 The assessee therefore pursued this issue before the Ld. JAO for rectification claiming that the Ld. FAO has erroneously not allowed the claim of deduction under section 80IA while updating the computation sheet. The Ld.

JAO allowed the claim of the assessee vide order dated 11.01.2023 passed under section 154 of the Act thereby determining the assessed income at Rs. 5,87,62,450/-. Thereafter, the Ld. JAO issued a notice to the assessee proposing to amend the rectification order dated 11.01.2023. He proceeded to pass a fresh rectification order on 03.07.2023 re-determining the assessed income at Rs. 11,68,26,650 as per assessment order dated 08.03.2023, the relevant extract of which is reproduced below:

> *"06. Findings of the AO in response to the submission para a to d summarised in Para 5 above*
>
> *6.1 It is stated that similar wording of assessment order AY 2017-18 and AY 2018-19 and similar claim of 801A was accepted during AY 2017-18 cannot be an acceptable premise as mentioned in the asseesse's submission that wordings of the assessment order "examined & perused conclusively means that FAO accepted Assessee's claim of 801A.*
>
> *6.2 Assessee's stated that FAO either would have accepted both the claim of 801A and 80JJAA or rejected it, and since in the computation, it is seen that 80JJAA is allowed and 801A is disallowed is absurd. In response, it is stated that even then it cannot be conclusively said, as per the readings of the assessment order, that FAO have accepted the claim of the assessee, as it can be an opposite scenario as well, that AO rejected both claims and erroneously computed it based on assessed income u/s 143(1) of IT Act 1961. Thus, on this premise, it is stated based on judgement of Hon'ble Supreme Court - T.S. Balaram, Income Tax officer v. Volkart Brothers [1971]82 ITR 50 (SC): where hon'ble Supreme court noted that that mistake on record must be an obvious and patent mistake and not something which can be established on long drawn process of reasoning on points on which there may be conceivable 2 opinions. Based on above reasoning, order u/s 154 of IT Act 1961 dated 11th January 2023 is not correct. Thus, as mentioned in the notice u/s 154 dated 12th June 2023, since due to oversight, it was missed thatcomputation was based on section 143(1) for assessed income, it cannot be conclusively said that FAO accepted the deduction u/s 801A of IT act. Also, it is re-iterated that proposed 154 order in this case does not tantamount to legal assessment whether 801A deduction is admissible or not, rather rectification of order where there is mistake apparent from record.*
>
> *6.3 Further it is stated that as per judgement of CIT, Chennai v. Haritha Seating Systems Ltd. [2011] 14 of the Madras High court, also quoted by the assessee, it can be concluded that any erroneous assessment cannot be subject matter for rectification u/s 154 and in such a scenario assessee should get it rectified only under procedure known to law by carrying the matter before the appropriate authority by way of appeal as per law. The judgement also says that a decision on a debatable point of law cannot be regarded as a mistake apparent on the face of the record amenable for rectification u/d 154. Thus, it is noted that in the in the instant case if assessee feels that assessment has been erroneous, that then, currently assessee needs to get it rectified by way of appeal only.*
>
> *6.4 Lastly, it is further stated that the legally as well, it is not clear whether FAO accepted the claim of the Assessee or not with regard to deduction u/s 801A of IT Act for various reasons:*
>
> *6.4.1 Assessee is taking plea in the rectification application that since 801A claim is admissible as the same was submitted along with his revised return of income u/s 139(5) of IT Act quoting section 801A (7) of IT Act which says that:*

> *The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant."*

However it is to be noted that when section 801A of IT act is read with Section 80AC of the Income Tax Act, time limitation of the claiming the aforesaid deduction become clearer, as section 80AC of IT Act elaborates that no deduction would be admissible under sections 801A, section 801AB, section 801B, section 80IC, section 80ID or section 801E, unless the return of income by the assessee is furnished on or before the due date specified under Section 139(1). Exact wordings of the Act is reproduced here for ready reference:

> *25. For section 80AC of the Income-tax Act, the following section shall be substituted, namely:-*
>
> *80AC. Deduction not to be allowed unless return furnished-Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after –*
>
> *(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-1E;*
>
> *(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.-Deductions in respect of certain incomes",*
>
> *no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.*

6.4. 2A recent Hon'ble Supreme court judgement in the case of PCIT vs Wipro, 446 ITR1 (SC) has clarified guidelines with respect to claim admissibility in revised return. Extracts of the judgement is presented as below for ready reference:

> **....Also In such a situation, filing a revised return under section 139(5) of the IT Act claiming carrying forward of losses subsequently would not help the assessee. In the present case, the assessee filed its original return under section 139(1) and not under section 139(3). Therefore, the Revenue is right in submitting that the revised return filed by the assessee under section 139(5) can only substitute its original return under Section 139(1) and cannot transform it into a return under Section 139(3), in order to avail the benefit of carrying forward or set-off of any loss under Section 80 of the IT Act. The assessee can file a revised return in a case where there is an omission or a wrong statement. But a revised return of income, under Section 139(5) cannot be filed, to withdraw the claim and subsequently claiming the carried forward or set off of any loss. Filing a revised return under Section 139(5) of the IT Act and taking a contrary stand and/or claiming the exemption, which was specifically not claimed earlier while filing the original return of income is not permissible."*

6.4.3 Based on the above facts and legal positions as well, it is not crystal clear that in Assessee's case, during the assessment order, FAO accepted the claim of the assessee on issue of 801A deduction of IT Act.

7. Thus, to sum up, it is stated that in view of above facts discussed, the total income of the assessee, as it was done during the assessment order, is as under.

Income determined as per assessment order dated 08/03/2021: Rs.11,68,26,650/-."

3. Aggrieved, the assessee filed appeal(s) before the Ld. CIT(A) challenging both the orders dated 08.03.2023 and 03.07.2023 passed under section 143(3) and section 154 of the Act respectively. Before the Ld. CIT(A), the assessee filed detailed submissions. The Ld. CIT(A) disallowed the claim of deduction under section 80IA of the Act in the appeal filed against section 143(3) order, by observing as under :

"Ground 03: In this ground of appeal the appellant objected the addition made by the Assessing Officer (CPC) is Rs. 5,80,64,205/- towards disallowance of 801A for the A.Y. 2018-19. The contention of the appellant has been considered. I have gone through the facts and found that the AO passed the rectification order u/s 154 r.w.s. 143(3) dated 03.07.2023 and relevant extract as under:-

06. Findings of the AO in response to the submission para a to d summarised in Para 5 above

6.1 It is stated that similar wording of assessment order AY 2017-18 and AY 2018-19 and similar claim of 801A was accepted during AY 2017-18 cannot be an acceptable premise as mentioned in the asseesse's submission that wordings of the assessment order "examined & perused conclusively means that FAO accepted Assessee's claim of 801A.

6.2 Assessee's stated that FAO either would have accepted both the claim of 801A and BOJJAA or rejected it, and since in the computation, it is seen that 80JJAA is allowed and 801A is disallowed is absurd In response, it is stated that even then it cannot be conclusively said, as per the readings of the assessment order, that FAO have accepted the claim of the assessee, as it can be an opposite scenario as well, that AO rejected both claims and erroneously computed & based on assessed income u/s 143(1) of IT Act 1961. Thus, on this premise, it is stated based on judgment of Hon'ble Supreme Court - T.S. Balaram, Income Tax officer v. Volkart Brothers [1971] 82 ITR 50 (SC): where Hon'ble Supreme court noted that that mistake on record must be an obvious and patent mistake and not something which can be established on long drawn process of reasoning on points on which there may be conceivable 2 opinions. Based on above reasoning, order us 154 of IT Act 1961 dated 11th January 2023 is not correct. Thus, as mentioned in the notice u/s 154 dated 12th June 2023, since due to oversight, it was missed that computation was based on section 143(1) for assessed income, it cannot be conclusively said that FAO accepted the deduction u/s 80IA of IT act. Also, it is re-iterated that proposed 154 order in this case does not tantamount to legal assessment whether 601A deduction is admissible or not, rather rectification of order where there is mistake apparent from record.

6.3 Further it is stated that as per judgment of CIT, Chennai v. Haritha Seating Systems Ltd. [2011] 14 of the Madras High court, also quoted by the assessee, it can be concluded that any erroneous assessment cannot be subject matter for rectification u/s 154 and in such a scenario assessee should get it rectified only under procedure known to law by carrying the matter before the appropriate authority by way of appeal as per law. The judgment also says that a decision on a debatable point of law cannot be regarded as a mistake apparent on the face of the record amenable for rectification u/s 154. Thus, it is noted that in the in the instant case if

assessee feels that assessment has been erroneous, that then, currently assessee needs to get it rectified by way of appeal only.

6.4 Lastly, it is further stated that the legally as well, it is not clear whether FAO accepted the claim of the Assessee or not with regard to deduction u/s 80IA of IT Act for various reasons.

6.4.1 Assessee is taking plea in the rectification application that since 80IA claim is admissible as the same was submitted along with his revised return of income u/s 139(5) of IT Act quoting section 801A (7) of IT Act which says that:

> *"The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the Explanation below sub-section (2) of section 280, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant."*

However it is to be noted that when section 80IA of IT act is read with Section 80AC of the Income Tax Act, time limitation of the claiming the aforesaid deduction become clearer, as section 80AC of IT Act elaborates that no deduction would be admissible under sections 80IA, section 80IAB, section 80IB, section 80IC, section 80ID or section 80IE, unless the return of Income by the assessee is furnished on or before the due date specified under Section 139(1). Exact wordings of the Act is reproduced here for ready reference:

> *25. For section 80AC of the Income-tax Act, the following section shall be substituted, namely-*
>
> *80AC Deduction not to be allowed unless return furnished-Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after-*
>
> *(i) the 1st day of April 2006 but before the 1st day of April, 2018, any deduction admissible under section 80-IA or section 80-IAB or section 80-1B or section 80-IC or section 80-ID or section 80-IE;*
>
> *(ii) the 1st day of April 2018, any deduction is admissible under any provision of this Chapter under the heading "C-Deductions in respect of certain incomes",*
>
> *no such deduction shall be allowed to him unless the furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 199;*

64. 2A recent Hon'ble Supreme court judgment in the case of PCIT vs Wipro, 446 ITR 1 (SC) has clarified guidelines with respect to claim admissibility in revised return. Extracts of the judgment is presented as below for ready reference

> *"Also In such a situation, filing a revised return under section 139(5) of the IT Act claiming carrying forward of losses subsequently would not help the assessee in the present case, the assessee filed its original return under section 139(1) and not under section 130(3). Therefore, the Revenue is right in submitting that the revised return filed by the assessee under section 139(5) can only substitute its original return under Section 139(1) and cannot transform it into a return under Section 139(3), in order to avail the*

benefit of carrying forward or set-off of any loss under Section 80 of the IT Act The assessee can file a revised return in a case where there is an omission or a wrong statement. But a revised return of income, under Section 139(5) cannot be filed, to withdraw the claim and subsequently claiming the carried forward or set off of any loss Filing a revised return under Section 139(5) of the IT Act and taking a contrary stand and/or claiming the exemption, which was specifically not claimed earlier while fling the original return of income is not permissible"

6.4.3 Based on the above facts and legal positions as well, it is not crystal clear that in Assessee's case, during the assessment order, FAO accepted the claim of the assessee on issue of 801A deduction of IT Act.

7. Thus, to sum up, it is stated that in view of above facts discussed, the total income of the assessee, as it was done during the assessment order, is as under:

Income determined as per ass assessment order assessment order dated 06/03/2021 : Rs. 11,68,26,650/-

However, the assessing officer was passed the assessment order u/s 143(3) 143(3A) & 143(3B) vide order number ITBA/AST/S/143(3)/2020-21/1031302466(1) dated 08.03.2021 and while computing the assessed income determination amounting to Rs. 11,63,23,680/- as per order 143(1)(a) passed by the CPC implies that FAO has rejected the claim of the appellant and accepted the CPC order u/s 143(1)(a) of the Income Tax Act, 1961. The relevant extract of assessment order and submission filed by the appellant reproduced as under:-

2. In this case one of the issue for selection is deduction claimed for Industrial Undertaking u/s. 801A/ 801AB/ 801AC/IB/ IC/ IBA/801D/80IE/10A/10AA. It seen from the records that the assessee has claimed deduction of Rs.5,80,64,205/- u/s 801A and Rs.1,08,53,325/-u/s 80JJA of the Income Tax Act, 1961 A clarification letter was issued to the assessee on 12.02.2021 requesting the assessee to submit the details to verify the conditions for eligibility for claim of deduction. In response to the clarification letter dated 12.02.2021 the assessee company upload its reply vide letter dated 22.02.2021. The submission of the assessee on the above point is thoroughly examined and perused.

1.5 The Appellant being aggrieved by the intimation has filed a rectification application, with the jurisdictional Assessing Officer (the jurisdictional AO), dated 18 March 2021. The rectification application filed by the Appellant is currently pending for disposal before the jurisdictional AO. Summary of the rectification application filed by the Appellant is provided below-

a. Disallowance of deduction claimed under section 80-IA(4) of the Act on the basis of non-filing of Form 10CCB The Appellant had made its claim of deduction for qualifying projects undertaken under section 80-IA(4) of the Act in its revised return of income amounting to Rs. 5,80,64,205. Vide CPC intimation issued under section 143(1)(a), the deduction claimed by the Appellant was denied on the basis that Form 10CCB has not been filed in accordance with provisions of section 80-IA(7) of the Act. The Appellant has submitted that it has duly filed Form 10CCB, for eligible undertaking, within the time period as prescribed in the Act and hence denial of claim owing to the same is a mistake apparent from record.

Further, the Appellant submitted that the CPC has exceeded its authority in disallowing the claim under section 80-IA of the Act, as section 143(1)(a)(v) requires the processing of the return of income by the CPC after

taking into consideration the disallowance of deduction claimed under section 80-IA of the Act, if the return is furnished beyond the due date specified under sub-section (1) of section 139 of the Act. The Appellant has filed its return of income within the due date as specified under section 139(1) of the Act.

b. Disallowance of deduction under section 43B of the Act-The CPC disallowed claim under section 43B of the Act made by the Appellant on the basis that there is a mismatch between the claim as per the Income-tax Return (ITR) and Tax Audit Report (TAR) and proposed an adjustment of Rs. 47,44,809. However, the Appellant vide letter dated 18/03/21 to Jurisdiction AO, Solapur copy enclosed as Annexure B, its response has already clarified that there is only a difference in the manner of presentation and the Appellant has rightfully claimed the same as deduction on payment basis under section 43B and the action of the CPC in not allowing the same is a clear mistake apparent from record future. Further we are also enclosing certificate as per Annexure C confirming the payment as per dates specified, which are before the due date of filing of the return.

c. Disallowance of deduction in relation to contribution made towards provident fund setup under the ESI Act - For the year under consideration, in the Tax Audit Report, the Appellant had reported compliance of deposition of employees contribution to provident fund, employee state insurance corporation and labour welfare fund under clause 20(b). The CPC vide its notice proposed an adjustment under section 36(1)(va) of the Act in relation to aforesaid contribution amounting to Rs. 13,06,741. The Appellant filed response letter dated 18/03/21 to Jurisdiction AO, Solapur copy enclosed as Annexure B. contending that such adjustment cannot be made under section 143(1) since the issue is covered in favour of the Appellant and nonetheless, debatable in nature, falling outside the scope of the provisions of section 143(1) of the Act. As per Annexure D. Further the amendment proposed in Finance Act 2021 is prospective as held in various decisions copies are enclosed as per Annexure E

d. Disallowance u/s 14A of Rs.5,02,970/- we are enclosing copy of Hon. CIT (A) Pune confirming that disallowance is not justified in view of various High Court and Super Court Decisions which were submitted and reproduced by AO while making assessment order but not agreeing for the same. We are enclosing copy of Hon. CIT(A) Pune as per Annexure F. Hence it need to be allowed. Kindly note that during the year we have not received any single penny as income for shares held in Kothari Prima Pvt Ltd which in fact has been merged with Kothari Agritech Pvt Ltd w.e.f 01.04.2018 as per NCLT order.

In view of the discussion, it is to be noted that when section 801A of Income Tax Act is read with Section 80AC of the Income Tax Act, time limitation of the claiming the aforesaid deduction become clearer, as section 80AC of IT Act elaborates that no deduction would be admissible under sections 801A, section 801AB, section 80IB, section 80IC, section 80ID or section 801E, unless the return of income by the assessee is furnished on or before the due date specified under Section 139(1). It is pertinent to note that the appellant has not filed Form 10CCB within due date & also without filing schedule 801A as per intimation to which response was made & also during Assessment proceedings u/s 143(3) further detailed submission made which though accepted mistakenly income taken as per income intimated u/s 143(1) (a) which consists of disallowance of Rs.5,80,64,605/-. The contention of the appellant remained unjustified and unsubstantiated. Hence, the Assessment Order is upheld the ground is noted as dismissed."

3.1 Similarly, the Ld. CIT(A) dismissed the appeal of the assessee against section 154 order, by observing as under:

> *"Ground 01: In this ground of appeal the appellant objected the addition made by the Assessing Officer (CPC) is Rs. 5.80,64,205/- towards disallowance of 801A for the AY 2018-19. The contention of the appellant has been considered. I have gone through the facts and found that the AO passed the rectification order wls 154 r.ws. 143(2) dated 03.07.2023 and relevant extract as under:-*
>
> *06. Findings of the AO in response to the submission para a to d summarised in Para 5 above*
>
> *6.1 It is stated that similar wording of assessment order AY 2017-18 and AY 2018-19 and similar claim of 801A was accepted during AY 2017-18 cannot be an acceptable premise as mentioned in the asseesse's submission that wordings of the assessment order "examined & perused" conclusively means that FAO accepted Assessee's claim of 801A.*
>
> *6.2 Assessee's stated that FAO either would have accepted both the claim of 801A and 80JJAA or rejected it, and since in the computation, it is seen that 80JJAA is allowed and 801A is disallowed is absurd. In response, it is stated that even then it cannot be conclusively said, as per the readings of the assessment order, that FAO have accepted the claim of the assessee, as it can be an opposite scenario as well, that AO rejected both claims and erroneously computed it based on assessed income u's 143(1) of IT Act 1961. Thus, on this premise, it is stated based on judgement of Hon'ble Supreme Court - T.S. Balaram, Income Tax officer v. Volkart Brothers [1971]82 ITR 50 (SC): where hon'ble Supreme court noted that that mistake on record must be an obvious and patent mistake and not something which can be established on long drawn process of reasoning on points on which there may be conceivable 2 opinions. Based on above reasoning, order u/s 154 of IT Act 1961 dated 11th January 2023 is not correct. Thus, as mentioned in the notice u/s 154 dated 12th June 2023, since due to oversight, it was missed that computation was based on section 143(1) for assessed income, it cannot be conclusively said that FAO accepted the deduction u's 801A of IT act. Also, it is re-iterated that proposed 154 order in this case does not tantamount to legal assessment whether 801A deduction is admissible or not, rather rectification of order where there is mistake apparent from record.*
>
> *6.3 Further it is stated that as per judgement of CIT, Chennai v. Haritha Seating Systems Ltd. [2011] 14 of the Madras High court, also quoted by the assessee, it can be concluded that any erroneous assessment cannot be subject matter for rectification u/s 154 and in such a scenario assessee should get it rectified only under procedure known to law by carrying the matter before the appropriate authority by way of appeal as per law. The judgement also says that a decision on a debatable point of law cannot be regarded as a mistake apparent on the face of the record amenable for rectification uid 154. Thus, it is noted that in the in the instant case if assessee feels that assessment has been erroneous, that then, currently assessee needs to get it rectified by way of appeal only.*
>
> *6.4 Lastly, it is further stated that the legally as well, it is not clear whether FAO accepted the claim of the Assessee or not with regard to deduction u/s 801A of IT Act for various reasons*
>
> *6.4.1 Assessee is taking plea in the rectification application that since 801A claim is admissible as the same was submitted along with his revised return of income u/s 139(5) of IT Act quoting section 801A (7) of IT Act which says that:*
>
> > *The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for*

> *which the deduction is claimed have been audited by an accountant, as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant*

However it is to be noted that when section 801A of IT act is read with Section 80AC of the Income Tax Act, time limitation of the claiming the aforesaid deduction become clearer, as section 80AC of IT Act elaborates that no deduction would be admissible under sections 801A, section 801AB, section 801B, section 80IC, section 80ID or section 801E, unless the return of income by the assessee is furnished on or before the due date specified under Section 139(1). Exact wordings of the Act is reproduced here for ready reference:

> *25. For section 80AC of the Income-tax Act, the following section shall be substituted, namely-*
>
> *80AC Deduction not to be allowed unless return furnished- Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after –*
>
> *(i) the 1st day of April 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-14 or section 80-1AB or section 80-1B or section 80-IC or section 80-ID or section 80-IE;*
>
> *(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C-Deductions in respect of certain incomes",*
>
> *no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.*

6.4 2A recent Hon'ble Supreme court judgement in the case of PCIT vs Wipro, 446 ITR1 (SC) has clarified guidelines with respect to claim admissibility in revised return. Extracts of the judgement is presented as below for ready reference:

> *....Also In such a situation, filing a revised return under section 139(5) of the IT Act claiming carrying forward of losses subsequently would not help the assessee. In the present case, the assessee filed its original return under section 139(1) and not under section 139(3). Therefore, the Revenue is right in submitting that the revised return filed by the assessee under section 139(5) can only substitute its original return under Section 139(1) and cannot transform it into a return under Section 139(3), in order to avail the benefit of carrying forward or set-off of anyl oss under Section 8C of the IT Act. The assessee can file a revised return in a case where there is an omission or a wrong statement. But a revised return of income, under Section 139(5) cannot be filed, to withdraw the claim and subsequently claiming the carried forward or set off of any loss Filing a revised return under Section 139(5) of the IT Act and taking a contrary stand and/or claiming the exemption, which was specifically not claimed earlier while filing the original return of income is not permissible."*

6.4.3 Based on the above facts and legal positions as well, it is not crystal clear that in Assessee's case, during the assessment order, FAO accepted the claim of the assessee on issue of 801A deduction of IT Act

7. Thus, to sum up, it is stated that in view of above facts discussed, the total income of the assessee, as it was done during the assessment order, is as under.

Income determined as per assessment order dated 08/03/2021 Rs 11,68,26,650/-

It is noted that JAO has also passed the detailed rectification order u/s 154 r.w.s. 143(3) vide order number ITBA/REC/S/154-1/2023-24/1054089997(1) dated 03.07.2023 and elaborately discussion relevant and applicable case laws, has remarked that Para no. 6.4.3" in the rectification order as under:-

6.4.3 Based on the above facts and legal positions as well, it is not crystal clear that in Assessee's case, during the assessment order, FAO accepted the claim of the assessee on issue of 801A deduction of IT Act.

Hence, based on the above the assessment order/rectification order does not warrant any interference. Hence, the rectification Order is upheld the ground is noted as dismissed."

4. Dissatisfied with the above order(s) of the Ld. CIT(A), the assessee is in appeal before the Tribunal raising the following grounds of appeal:

ITA No 2392/PUN/2024 – Appeal under section 143(3) order

"On the facts and in circumstances of the case and in law, the NFAC has:

***General**:*

1. *erred in not allowing the Appellant the deduction of Rs 5,80,64,205 under section 80-IA of the Act to the Appellant;*

Merits: Allowability of claim for deduction under section 80-IA of the Act - Rs.5,80,64,205

2. *erred in upholding the actions of the learned AO in denying the Appellant's claim for deduction under section 80-IA of the Act,*

3. *ought to have appreciated that if the audit report in Form 10CCB is filed any time before the framing of the assessment, the requirements of the provisions of section 80-IA read with section 80AC of the Act may be treated as met;*

4. *ought to have appreciated that claim for deduction under section 80-IA of the Act for AY 2017-18 was also made by way of a revised return of income which was allowed in the course of the assessment proceedings by the learned AO;*

Erroneous levy of interest under section 234B and section 234C of the Act

5. *The learned AO has erred on the facts and in circumstance of the case and in law by proposing to levy additional interest under section 234B and section 234C of the Act as compared to the return of income.*

Initiation of penalty proceedings under section 274 read with section 270A of the Act

6. *The learned AO has erred in initiating penalty proceedings against the Appellant under section 274 read with section 270A of the Act for under reporting of income.*

Any consequential relief to which the Appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal or otherwise, thus may be granted.

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."

ITA No 2455/PUN/2024 – Appeal under section 154 order

"On the facts and in circumstances of the case and in law, the learned CIT(A) has:

General:

1. *erred in upholding the action of the learned AO in not granting deduction of Rs 5,80,64,205 under section 80-IA of the Act to the Appellant,*

Invalidity of order passed under section 143(3) read with section 154 of the Act dated 3 July 2023:

2. *erred in upholding the order under section 143(3) read with section 154 of the Act dated 3 July 2023 holding that it is not crystal clear that the learned AO has accepted the Appellant's claim for deduction under section 80-IA of the Act without appreciating that the deduction was duly allowed vide earlier order under section 143(3) read with 154 of the Act dated 11 January 2023,*

3. *failed to appreciate that withdrawal of deduction allowed by earlier order tantamounts to a change of opinion which is outside the purview of rectification under section 154 of the Act and thereby, making the rectification order bad-in-law and liable to be quashed;*

4. *ought to have appreciated that the present issue of allowability of deduction under section 80-IA by way of revised return which was allowed vide earlier order under section 143(3) read with 154 of the Act dated 11 January 2023 but disallowed vide the impugned rectification order is debatable due to various reasons and thereby, making the impugned rectification order bad-in-law and liable to be quashed;*

Merits: Allowability of claim for deduction under section 80-IA of the Act - Rs. 5,80,64,205

5. *erred in upholding the actions of the learned AO in denying the Appellant's claim for deduction under section 80-IA of the Act,*

6. *ought to have appreciated that if the audit report in Form 10CCB is filed any time before the framing of the assessment, the requirements of the provisions of section 80-IA read with section 80AC of the Act may be treated as met;*

7. *ought to have appreciated that claim for deduction under section 80-IA of the Act for AY 2017-18 was also made by way of a revised return of income which was allowed in the course of the assessment proceedings by the learned AO;*

Erroneous levy of interest under section 234B and section 234C of the Act

8. *The learned AO has erred on the facts and in circumstance of the case and in law by proposing to levy additional interest under section 234B and section 234C of the Act as compared to the return of income.*

Any consequential relief to which the Appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal or otherwise, thus may be granted.

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."

5. We have heard the Representatives of the parties, perused the material available on record and the Paper Book filed by the Ld. Counsel on behalf of the assessee. Before us, the Ld. AR reiterated the submissions made before the Ld. CIT(A) wherein various contentions have been raised by the assessee in respect of denial of exemption claimed under section 80IA of the Act. The Ld. DR, on the other hand, supported the order(s) of the Ld. AO and CIT(A). We find that the Ld. AO disallowed the claim of the assessee for the reasons reproduced in the preceding paragraphs. The facts on record reveal that the assessee had made detailed submissions before the Ld. CIT(A) to substantiate its claim of deduction under section 80IA of the Act along with various judicial precedents in favour of the assessee involving the impugned issue (pages 196-205 and 267-292 of the Paper Book refers). We find that the Ld. CIT(A) has upheld the findings of the Ld. AO by passing a cryptic order without considering the submissions of the assessee. Further, the assessee has also raised a contention that the identical claim has been assessed and accepted by the Department for preceding AY 2017-18 (i.e. the initial year of claim) in the scrutiny assessment and this fact was also highlighted to the Ld. FAO and CIT(A) who though took the cognizance of the same but chose to remain silent on this aspect as well. Similarly, it is also the contention of the assessee that the assessee's claim of deduction under section 80JJA under identical fact scenario has been allowed for AY 2018-19 presently under consideration and hence denial of exemption under section 80IA in the same AY is not justifiable.

6. Considering the totality of the facts and in the circumstances of the case enumerated above and in the interest of justice and without going into the merits of the appeal(s), we deem it proper to restore the issues to the file of the Ld. CIT(A) with a direction to decide the issues afresh on merits as per fact and law in consideration of the submissions made by the assessee including the various judicial precedents cited therein, after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the Ld. CIT(A) on the appointed date and make further submissions, if required, without seeking any adjournment under any pretext, failing which the Ld. CIT(A) shall be at liberty to pass appropriate order as per law. We hold

and direct accordingly. The effective grounds of appeal raised by the assessee in both the appeals are accordingly allowed for statistical purposes. Grounds relating of levy of interest under section 234B and section 234C being consequential and the ground relating to initiation of penalty proceedings under section 274 r.w. section 270A of the Act being premature are not adjudicated.

7. In the result, the both appeals of the assessee in ITA Nos. 2392 & 2455/PUN/2024 are partly allowed for statistical purposes.

Order pronounced in the open court on 09th September, 2025.

Sd/-	Sd/-
(R.K. Panda)	(Astha Chandra)
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 09th September, 2025.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune