

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.562/NAG/2025
(Assessment Year :2017-18)

Jaishingh Krushnarao Chavhan,
95, Butibori Industrial Area, Tiwari,
Nagpur 440 002,
Maharashtra.
PAN -ADOPC8820B

..... Appellant

v/s

Income Tax Officer
Ward-4,
Aayakar Bhavan,
Nagpur-440001,
Maharashtra.

..... Respondent

Assessee by: Shri. Vivek K. Jani. A.R.
Revenue by : Shri. Surjit Kumar Saha. Sr.DR

Date of Hearing – 17/10/2025

Date of Order – 17/10/2025

ORDER

The assessee has filed the appeal against the order dated 07/07/2025, passed by the AddL/JCIT(A)-6, Delhi, u/sec 143(3) and u/sec 250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2017-18. The assessee has raised the following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law, the order passed by the Learned Commissioner of Income Tax (Appeals) [CIT(A)] is erroneous, against the principle of Natural Justice and bad in law.

2. The CIT(A) has erred in confirming the action of the Assessing Officer (AO) in disallowing set-off of brought forward business loss of 17,02,894/- pertaining to AY 2011-12, without appreciating that the return of income for AY 2011-12 was duly filed within the due date u/s 139(1) i.e., 30.09.2011 (as the assessee had audited his books of

accounts u/s 44AB) and the same had been duly allowed and accepted in AY 2011-12.

3. The CIT(A) has erred in sustaining the AO's action even though the assessee had submitted complete documentary evidence including the ITR acknowledgment, audited accounts, and audit report for AY 2011-12, which clearly established timely compliance.

4. The CIT(A) erred in upholding the decision of the AO in disallowing the set-off of carried forward losses for AY 2017-18 on the reasoning that such losses were erroneously carried forward in AY 2011-12. The AO had no jurisdiction in AY 2017-18 proceedings to adjudicate upon the correctness of losses determined and carried forward in AY 2011-12, as the same had already attained finality.

5. The CIT(A) has passed the order in violation of the principle of consistency, since the carried forward losses from AY 2011-12 had been accepted and allowed to be set-off in the intervening assessment years. Once such losses were accepted in earlier years, the same could not be denied in AY 2017-18 without any change in facts or law,

6. The appellant craves leave to add, alter, vary, omit, amend or delete one or more of the grounds of appeal before, or at the time of, hearing of the appeal so as to enable your honor to decide this appeal according to law."

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and the assessee has filed an affidavit for condonation of delay explaining the sufficient cause. Whereas the facts mentioned in the Affidavit are reasonable and the learned D.R. has no specific objections. Accordingly, the delay is condoned and the appeals are admitted.

3. Further the Ld.AR of the assessee has not pressed grounds of appeal no. 2, 3 & 5 and accordingly made an endorsement in the grounds of appeal and they are treated as withdrawn and are dismissed.

4. The brief facts of the case are that, the assessee is engaged in the business of refining of oil. The assessee has filed the return of income for the A.Y. 2017-18 on 27/10/2017 disclosing a total income of Rs.Nil after setting off of brought forward business loss. Subsequently, the case was selected for scrutiny under the CASS and notice u/sec143(2) and u/sec 142(1) of the Act along with questionnaire are issued, and in response, the assessee has filed the information through e-portal with written submissions, copy of income tax details, computation of income, audit report and audited financial statements. The Assessing Officer on a perusal of the information and financial statements found that the assessee has claimed set-off of business loss carry forward from earlier year to the extent of Rs.17,02,894/- and which pertains to the A.Y. 2011-12 and the Assessing Officer has dealt on these facts and at Page-2 of the assessment and observed that the assessee for A.Y. 2011-12 has not filed return of income within the prescribed time limit, therefore, the claim cannot be allowed and has disallowed the set-ff of loss and assessed the total income of Rs.17,02,894/- and passed the order u/sec143(3) of the Act dated 16-12-2019. Aggrieved by the order, the assessee has filed the appeal before the CIT(A).

5. In the appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, submissions and findings of the Assessing Officer but has confirmed the action of the assessing officer and

dismissed the assessee appeal. The assessee being aggrieved filed appeal before the Hon'ble Tribunal.

6. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in sustaining the disallowance of carry forward loss set-off against the current business income. Whereas the Assessing Officer has wrongly interpreted that the carried forward loss pertains to the A.Y. 2011-12, whereas this set-off of loss pertaining to the assessment year 2012-13 and 2013-14. In the A.Y. 2016-17, the assessment was completed u/sec 143(3) of the Act and the carry forward of loss from earlier years i.e A.Y. 2012-13 and 2013-14 was accepted. The Ld.AR substantiated the submissions with the factual Paper book and prayed for allowing the appeal. Per Contra, the Ld.D.R. supported the order of the CIT(A).

7. Heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in sustaining the disallowance of carry forward loss without verifying the information and submissions filed that such loss pertains to A.Y. 2012-13 and A.Y.2013-14. The Ld.AR demonstrated that for the A.Y. 2017-18, the assessee has filed the return of income within the time u/sec139(1) of the Act and referred to the computation of income placed at Page-8 & 9 of the Paper Book and in particular at Page-9, the assessee has referred to the statement of loss brought forward / carry forward being for A.Y. 2012-13 and 2013-14 aggregating to

Rs.77,61,526/- and out of the said loss of Rs.17,02,894/- was set-off during current year i.e., A.Y. 2017-18 and the balance available of A.Y. 2013-14 is Rs.60,58,632/- and was carry forward. The Ld.AR also highlighted in the return of income filed placed at Page-50 of the paper book in Schedule CFL details of loss to be carry forward as set-off for A.Y. 2012-13 and 2013-14 is mentioned. Further the Ld.AR filed copy of assessment order u/sec14.3(3) for A.Y.2016-17 dated 30/11/2018, where the carry forward of loss of earlier years mentioned in the computation of income at Page-61-62 of the Paper Book was filed in the assessment proceedings. Therefore, considering the facts, circumstances and the submissions, the assessee has set-off carry forward loss of A.Y. 2012-13 and A.Y.2013-14, against the current year business income and is not disputed by the Revenue. Accordingly, the order of the CIT(A) is set aside and direct the Assessing Officer to delete the disallowance of carry forward loss . And these grounds of appeal are allowed in favour of the assessee.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on 17/10/2025 as per rule 34(5) of the ITAT Rules 1963

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur