

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No. 1643/Ahd/2025
(Assessment Year: 2015-16)

GHCL Limited, GHCL House, Opp. Punjabi Hall, Nr. Swastik Society, Navrangpura HO, Ahmedabad-380009 [PAN : AAACG 5609 C]	Vs.	Deputy Commissioner of Income-tax, Central Circle 1(2), Ahmedabad
(Appellant)	..	(Respondent)
Assessee by :	Shri Tushar Hemani, Sr. Advocate & Shri Kushal Fofaria, AR	
Revenue by:	Shri Prem Prakash Meena, CIT-DR	
Date of Hearing	05.01.2026	
Date of Pronouncement	07.01.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

This appeal has been filed by the assessee against the order of the Ld. Commissioner of Income-tax (Appeals)-11, Ahmedabad (hereinafter referred to as "CIT(A)" for short) dated 10.06.2025, passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2015-16.

2. The assessee has raised following grounds:-

"1. The learned CIT(A) has erred in law and on facts of the case in confirming the order passed by learned AO u/s 154 of the Act for not allowing set off of brought forwards business loss of Rs. 1,50,21,12,383/-.

2. The Learned CIT(A) and Learned AO has erred in law and on facts in confirming the action of Learned AO of rejecting the application u/s 154 of

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the Act and ignoring the fact that such loss has already been allowed vide order u/s 154 dated 30.08.2017.

3. Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.

4. The Assessing Officer (AO) had not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s.153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.”

3. The relevant facts for the adjudication of the issues raised in the grounds of appeal are that the assessee filed the return of income on 27.11.2015 declaring total income of Rs.184,75,65,720/-. The return of income was processed u/s. 143(1) on 04-11-2016, wherein the income under normal provisions was computed at Rs. 184,75,65,720/- and the book profit u/s. 115JB was computed at Rs.258,01,15,981/-. In pursuance to CIT(A)-2 Orders for AY 2011-12, AY 2012-13 and AY 2014-15, the unabsorbed depreciation and brought forward business loss, allowable to the assessee company was worked out at Rs. 150,21,12,383/-.

Placed below is the Order u/s. 250 Giving Effect to CIT(A)'s Order:

A.Y.	Nature of B/F UAD and Bd/F Business loss	Appeal Effect Order Date	Amount
2011-12	Unabsorbed Depreciation	07.10.2015	5,02,52,912
2012-13	Unabsorbed Depreciation	20.04.2017	6,75,07,378
2013-14	Unabsorbed Depreciation	21.07.2017	84,21,34,563
2014-15	Unabsorbed Depreciation	21.07.2017	54,22,17,530
		Total	1,50,21,12,383
Less:	Above unabsorbed business losses and unabsorbed depreciation adjusted in AY 2015-16	Order u/s 154 dated 30.08.2017	-1,50,21,12,383

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4. The assessee company filed an application u/s. 154 on 24-07-2017 requesting the Assessing Officer to rectify Order u/s. 143(1) dated 04-11-2016 and allow the set-off of unabsorbed depreciation and brought forward business loss of Rs.150,21,12,383/-. **The Assessing Officer passed order u/s. 154 on 30-08-2017, accepting the contentions of the assessee company and computed revised total income at Rs.38.39,59,400/-.**

5. The history of the case was that the assessee's claim of brought forward business loss was on account of invocation of corporate guarantees of subsidiary companies, which were given for the purpose of Global business of the assessee company and was commercially expedient, during AY 2011-12 to AY 2014-15. After the AO had disallowed the claim, assessee got relief both at the level of CIT(A) / ITAT and the claim has been consistently allowed in all these years. A copy of Order Giving Effect to CIT(A)'s Order u/s. 250 dated 21-07-2017 for AY 2014-15 is placed on record. The relief given by CIT(A) has been approved by the ITAT Ahmedabad as per consolidated order for AY 2009-10 to AY 2014-15 dated 05-03-2021. Thus, the matter stands settled upto the level of Tribunal.

6. Later, owing to search on Neelkanth Group on 10-11-2021, a notice u/s. 153C was issued to the assessee company on 29-06-2022. **The assessee company filed return u/s. 153C on 19-07-2022. However, inadvertently, the returned income was shown at Rs. 184,75,65,720/- i.e. income as per return u/s. 139(1) as against the correct figure of Rs.38,39,59,400/-, vide order u/s. 154 dated 30-08-2017.** No additions were made and the Assessing Officer has accepted the returned income vide Order u/s. 143(3) rws 153C for AY 2015-16 dated 25-01-2024.

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7. Later, rectification applications had been filed on 25-03-2024 and 18-11-2024 requesting the AO to rectify Order u/s. 153C dated 25-01-2024 and allow unabsorbed depreciation and determined brought forward business loss Rs. 150,21,12,383/-. The request of the assessee company has been rejected, as per Order dated 25-11-2024. The rejection of the rectification application by the Assessing Officer is on the ground that assessee had not made the claim of brought forward business loss and unabsorbed depreciation in the return filed u/s. 153C and no new claim could be made before the Assessing Officer except by filing revised return of income following the decision of Supreme Court in the case of Goetz India Ltd 284 ITR 323 (SC) and further if no claim in the return u/s. 153C was made, there was no mistake in AO not allowing the set-off of brought forward business loss and unabsorbed depreciation.

8. Heard the arguments of both the parties and perused the material available on record.

(i) Unabsorbed depreciation and business loss aggregating to Rs.150,21,12,383/- had crystalized on 30-08-2017 i.e. the date of Order u/s. 154 rectifying order u/s. 143(1) dated 04-11-2016 and therefore is very much a part of assessment record. Thus, the mistake is apparent on the face of the assessment record.

(ii) The above losses / UAD were crystalized from the CIT(A)'s order for AY 2011-12, AY 2012-13 and AY 2014-15, as explained above, therefore, there was no question of un-determination of losses at any stage.

(iii) Proceedings u/s. 153C have been initiated with a view to assess undisclosed income, if any based on incriminating material seized during the search at the premises of third person i.e. Neelkanth Group. Since


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there was no incriminating material, no addition has been made in the order u/s. 153C dated 25-01-2024 with respect to any undisclosed income.

- (iv) Therefore, in the absence of any incriminating material whatsoever, the Assessing Officer while completing assessment u/s. 153C ought to have started from the last Assessed Income as per Order u/s. 154 dated 30-08-2017. It is also submitted that the AO in rectification proceedings u/s. 154 dated 25-11-2024 not only reviewed CIT(A)'s Order and ITAT Orders, but also not considered genuine brought forward losses assessed and determined as per his own records of income-tax.
- (v) The Assessing Officer has merely reviewed his predecessor's order dated 30-08-2017 and disallowed the claim of brought forward business loss and unabsorbed depreciation.
- (vi) The only ground of rejection of assessee company's request for adjustment of unabsorbed depreciation and brought forward loss in the order dated 25-11-2024 is that the assessee company had not made this claim in the original return of income filed u/s. 139(1) on 27-11-2015 as well as in the return filed u/s: 153C on 29-06-2022 and in view of decision of Supreme Court in the case of Goetze (India) Ltd 284 ITR 323 (SC), the claim not made in the original returns, which were not revised u/s. 139(5), the same could not be allowed on the basis of a mere letter during the course of assessment proceedings. The Assessing Officer has also referred to similar claim made in AY 2014-15, which was allowed by CIT(A) / ITAT.

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(vii) This is a clear case of mistake apparent on record of Assessing Officer. In fact, while framing the assessment order u/s 153C, Assessing Officer ought to have started the figure of last assessed income as per order dated 30.08.2017.

 <p>Office of the Assistant Commissioner of Income Tax, Circle- 2 (1)(1) Room No 103, First Floor, Navjeevan Trust Building, Near Navjeevan Post Office Ahmedabad-380014, Tel: (079) 27542589</p>	
ORDER U/S. 154 OF THE I.T. ACT	
Name and address of assessee	GHCL Limited, GHCL House, Opp. Punjabi Hall, Nr, Swastik Society, Navrangpura Ahmedabad
Status	Company
PAN	AAACG5609C
Assessment Year	2015-16
Date of order	30.08.2017 ✓

The assessee company vide its rectification application dated 24/07/2017 had brought to notice that while passing order u/s 250 of the I.T. Act for A.Y. 2014-15 on 21/07/2015, consequential effect of the said order for A.Y. 2015-16 in respect of unabsorbed Depreciation and brought forward business loss has not been given till date.


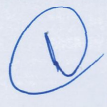
2. On verification of the records, the above contention put forth by the assessee is found to be true and apparent on records. Therefore, the consequential effect for unabsorbed depreciation and brought forward business loss of Rs. 150,21,12,383/- for A.Y. 2014-15 is rectified by passing order u/s. 154 of the I.T. Act. The same being apparent from records, is rectified accordingly.

3. Subject to the above, the total income of the assessee is recomputed as under:

Total Income/Loss as per intimation u/s 143(1) of the Act dated 04/11/2016	(Amount in Rs)
Business Income	184,85,59,250
Long Term Capital Gain (Set Off Taken now not available)	3,75,12,536
Total Income	188,60,71,786
Less:	
Unabsorbed Depreciation & B/f business Loss	150,21,12,383
Revised Business Income / Loss	38,39,59,403
i.e. Revised Total Income	38,39,59,400

MAT income u/s. 115JB remains same as assessed u/s. 143(1) dated 04/11/2016 at Rs. 258,01,15,981/-. Accordingly, unabsorbed Depreciation and brought forward business loss till date has been allowed in toto & no such loss remains.

Accordingly, total income is revised as per order u/s.154 of the Act. Calculate tax and charge interest u/s. 234A/B/C and 234-D of the Act as per ITNS-150. Demand Notice and challan/R.O. issued after giving credit for prepaid taxes as per ITNS 150.


Recd
Gatik
31/08/2017

(A R Gokhe)
ACIT, Circle-2(1)(1), Ahmedabad

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9. Since the revised total income as per the order U/s 154 dated 30.08.2017 stands at Rs.38,39,59,400/- and since no additions have been made in the Assessment Order passed u/s 153C of the Act, the mistake apparent in the return filed during the proceedings u/s 153C needs to be rectified and returned income shall be treated similar to that of the order u/s 154 dated 30.08.2017.

10. In the result, the appeal of the assessee is allowed.

The order is pronounced in the open Court on 07.01.2026

Sd/-

**(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad; Dated 07/01/2026

***btk*

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि ढ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
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