

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 338/AHD/2026
Assessment Years: 2017-18**

Yogendra Bansidhar Bhatt, 117-118 Orchid Bunglow, Near United Way Garba Ground Op Road, Gujarat - 390007 [PAN – AYWPS2887D] (Appellant)	Vs.	ITO Ward 1(2)(3), Aayakar Bhawan, Race Course Circle, Vadodara - 390007 (Respondent)
Assessee by	Shri Hardik Vora, Advocate	
Revenue by	Shri Abhijit, Sr. DR	
Date of Hearing	08.04.2026	
Date of Pronouncement	21.04.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order dated 12.01.2026 passed by Addl/JCIT(Appeal) – 1 Chennai [hereinafter referred to as ‘Addl. CIT(A)’] for the Assessment Year (A.Y.) 2017-18 in the proceeding u/s. 154 of the Income Tax Act (hereinafter referred as “the Act”).

2. The brief facts of the case are that the assessee had filed his return of income for A.Y. 2017-18 on 21.09.2018 declaring total income of Rs.40,49,531/-. The assessment was completed u/s. 143(3) of the Act on 27.12.2019 at total income of Rs. 51,53,550/-. Subsequently, the AO had

noticed that the assessee had claimed wrong depreciation in respect of elevator and life-saving medical equipments under the head 'plant and machinery' which was allowed in the assessment. Therefore, a proceeding u/s. 154 of the Act was initiated to rectify the mistake apparent from the error. The AO had passed an order u/s. 154 r.w.s 143(3) of the Act on 09.01.2023 withdrawing the excess depreciation claimed by the assessee.

3. Aggrieved with the rectification order of the AO, the assessee had filed an appeal before the first appellate authority, which was decided by the learned Addl. CIT(A) vide the impugned order and the appeal of the assessee was dismissed.

4. Now the assessee is in second appeal before us. The following grounds have been taken in this appeal:

1. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in confirming invocation of power u/s 154 on disputed question of law and facts.*
2. *On the facts and circumstances of the case as well as on the subject, the Ld. CIT(A) has erred in confirming the disallowance of 50% of the agricultural income amounting to Rs. 6,08,260/- without appreciating that the assessee had furnished 7/12 extracts and certificate of Mamlatdar, and that agricultural activities were consistently carried out over the years.*
3. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in upholding the addition of Rs. 6,63,075/- by restricting depreciation on plant and machinery to 15% instead of 40%, ignoring that the assets such as modular operation theatre, oxygen pipeline system, and anaesthesia trolley system are life-saving medical equipment eligible for higher depreciation.*
4. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in sustaining the initiation of penalty proceedings u/s 270A of the Act.*

5. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

5. Shri Hardik Vora, the Ld. AR of the assessee submitted that the depreciation claim on the life-saving equipment was a debatable issue and, therefore, the AO was not correct in passing the rectification order u/s. 154 of the Act. In this regard, he relied upon the decision of Hon'ble Madras High Court in the case of **Vasantha Subramanian Hospitals (P) Ltd. [98 taxmann.com 292 (Madras)]**.

6. Per Contra Shri Abhijit, the Ld. Sr. DR, submitted that life-saving medical equipments, which are eligible for depreciation at the rate of 40%, are enumerated in Part – III of Machinery and Plants of the depreciation table under the Income Tax Rules. The items on which higher depreciation was claimed by the assessee did not fall in the list of equipment as mentioned therein. Therefore, there was no debate about wrong claim of depreciation by the assessee. Accordingly, the AO had rightly passed the order u/s. 154 of the Act rectifying the mistake apparent from record. The Ld. Sr. DR further submitted that the assessee had in fact admitted excess claim of depreciation on elevator and the rectification on this issue was not contested by him.

7. We have considered the rival submissions. The ground no-1 taken by the assessee pertains to invocation of provision of section 154 of the Act. It is found that the assessee had claimed depreciation at the rate of 40% on following items which were categorised as life-saving medical equipment:

i. Operation Theatre

- ii. Air Pipeline System
- iii. Anaesthesia Trolley System
- iv. Stabilizer

The life-saving medical equipment on which depreciation at the rate of 40% is allowable, is specified at serial (xia) of Part III Machinery and Plant of depreciation table under Income Tax Rules, which are as under:

- (xia) Life saving medical equipment, being—**
- (a) D.C. Defibrillators for internal use and pace makers
 - (b) Heamodialysors
 - (c) Heart lung machine
 - (d) Cobalt Therapy Unit
 - (e) Colour Doppler
 - (f) SPECT Gamma Camera
 - (g) Vascular Angiography System including Digital Subtraction Angiography
 - (h) Ventilator used with anaesthesia apparatus
 - (i) Magnetic Resonance Imaging System
 - (j) Surgical Laser
 - (k) Ventilators other than those used with anaesthesia
 - (l) Gamma knife
 - (m) Bone Marrow Transplant Equipment including silastic long standing intravenous catheters for chemotherapy
 - (n) Fibre optic endoscopes including, Paediatric resectoscope/audit resectoscope, Peritoneoscopes, Arthroscope, Microlaryngoscope, Fibreoptic Flexible Nasal Pharyngo Bronchoscope, Fibreoptic Flexible Laryngo Bronchoscope, Video Laryngo Bronchoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope
 - (o) Laparoscope (single incision)

8. It is evident from the comparison of the two lists that the items/equipments on which the assessee had claimed higher depreciation @ 40% did not fall into the category of life-saving medical equipment as specified in the depreciation table under the Rules. Therefore, the AO had rightly held that there was a mistake apparent from record in allowing higher depreciation to the assessee. We do not find any merit in the objection as raised by the assessee. In the case of *Vasantha Subramanian Hospitals (P) Ltd. (supra)*, relied upon by the assessee, the equipments on which higher depreciation was claimed by the assessee were found to be identical to the machinery mentioned in Rules specifying higher rate of depreciation. In the present case, however, we do not find any such similarity and the equipments on which the assessee had claimed higher depreciation are not even remotely identical to the life-saving equipments eligible for higher depreciation. Therefore, the assessee cannot derive any benefit from the decision as relied upon, as the facts are found to be distinctly different. Accordingly, the ground No. 1 as taken by the assessee, is **dismissed**.

9. Ground No. 2 taken by the assessee was not pressed by the Ld. AR. Hence, the same is dismissed.

10. The ground No. 3 pertains to restricting the depreciation on plant and machinery to 15% instead of 40% claimed by the assessee. As already discussed earlier the equipments on which the assessee had claimed higher depreciation of 40% are not found covered within the life-saving medical equipment specified at serial (xia) of Part III Machinery and Plant of depreciation table under Income Tax Rules. Therefore, the

AO had rightly reduced depreciation thereon at the rate of 15%, as the mistake was apparent from the record. Accordingly, the ground taken by the assessee is dismissed.

11. The other grounds taken by the assessee are only consequential and general in nature, hence dismissed.

12. In the result, the appeal of the assessee is dismissed.

Order pronounced in the Court on 21/04/2026 at Ahmedabad.

Sd/-
(SAJAY GARG)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Dated – 21st April, 2026

Neelesh, Sr. PS

(True Copy)

आदेश की प्रतिलिपि अग्रेषित/ 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 / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad