IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.300/Nag./2023
(Assessment Year : 2018–19)

Hariom Biotech Agri Farming
261, Small Factory Area
Bagadganj, Nagpur 440 008
PAN – AAGFH8726E

..... Appellant

v/s

Dy. Commissioner of Income Tax
Central Processing Centre, Bengaluru

..... Respondent

Assessee by : Shri Mahavir Atal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 08/08/2024	Date of Order – 14/08/2024

O R D E R

PER K.M. ROY, A.M.

The present appeal has been filed by the assessee challenging the impugned order dated 17/08/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2018–19.

2. In its appeal, the assessee has raised following grounds:–

"1. Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax Appeals (NFAC) Delhi was justified in affirming addition of Rs.1,15,69,581/- made by the CPC u/s 154 of the Income Tax Act, 1961.

2. The Appellant craves leave to add or alter any other ground that may be taken at the time of hearing."

3. The Assessee is engaged in the activities of farming of mushrooms. The income from the said activity is in the nature of agricultural income and hence it is exempt from taxation. During the year under consideration, the assessee has earned an agricultural income of ₹ 1,15,69,581, and the same was claimed as exempt. The resultant income (i.e.) ₹ 1,15,69,580, was claimed as an exempt by the assessee while filing return of income and the total income was returned as nil. However, the Central Processing Centre [CPC] processed return of income but did not grant exemption while computing the business income. On perusal of the intimation, it was found that the said disallowance is based on incorrect claim as the schedule of exempt income was not filed. Accordingly, the CPC has rejected the claim of the assessee and had computed total income at ₹ 1,15,69,580.

4. The assessee being aggrieved went in appeal before the learned CIT(A), who also dismissed the appeal filed by the assessee on the issue of rectification under section 154 of the Act. The learned CIT(A), while dismissing the appeal, has rightly observed as follows:–

> *"2. With respect to the above rejection, the appellant has made the following submission before me-*
>
> > *"1. The Assessee is engaged is engaged in production of agriculture produce (i.e. cultivation of Mushrooms), the income so generated is being shown as agriculture income and is exempt u/s 10 read with Explanation 3 to section 2(IA).*
> >
> > *2. In schedule BP-computation of income from Business or profession*
> >
> > *We have shown:- profit before tax as per profit and loss account (item 46 and 54d of part A-P and L) as Rs. 11569581.*
> >
> > *And also deducted:- Income credited to profit and loss account (included in 1) which is exempt as Rs. 1156958.*
> >
> > *EXTRACT OF SCHEDULE BP RETURN FILLED: Page No. 3*

3. In schedule El we have not entered any value due to inadvertent error in part of clerk in filling of return of income.

EXTRACT OF SCHEDULE BP RETURN FILLED: Page No. 4 UP

EXTRACT OF FORM WHERE VALUE WAS TO BE ENTERED BUT NOT FILLED DUE TO INADVERTENT ERROR: Page No. 4 DOWN

4. Please refer to our previous replied for some details of o Four agriculture activity.

Thus it is a humble request to reconsider the return furnished as it was an inadvertent error of clerk made while submitting the income tax return for AY 2018-19. I have enclosed the screenshots of errors made."

3. In view of the above I have to conclude that while processing a return u/s 143(1), CPC cannot compensate for a failure of the appellant to make a correct claim of any exemption. Therefore, the CPC is correct in saying that since there is no apparent mistake in the order u/s 143(1), it could not corrected in u/s 154 of the I.T. Act.

4. The correct alternative for the appellant would have been to file a revised return within time available for it, or file such revised return after getting any delay condoned by the Administrative Commissioner."

Aggrieved, the assessee is in further appeal before the Tribunal.

5. Before us, the learned Authorised Representative submitted that there is an error in filing the return of income of not mentioning same figure again in the Schedule El. The said error is apparent on the face of the ITR filed by the assessee and this being a mistake apparent from record, it can be rectified under section 154(1)(b), which provides for amendment of any intimation, or deemed intimation under section 143(1) in case of mistake apparent from record. However, the could not controvert the fact that the error is on the part of filling the return of income correctly and no error can be ascribed upon the processing of return of income driven by artificial intelligence.

6. We have given a thoughtful consideration to the rival arguments made and perused the material available on record. At this juncture, we reproduce

the relevant portion of the provisions of section 143(1) of the Act which read as under:–

> *"Assessment.*
>
> *143. (1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—*
>
> *(a) the total income or loss shall be computed after making the following adjustments, namely:—*
>
> *(i) any arithmetical error in the return;*
>
> *ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;*
>
> *(iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;*
>
> *(iv) disallowance of expenditure [97][or increase in income] indicated in the audit report but not taken into account in computing the total income in the return;*
>
> *(v) disallowance of deduction claimed under [98][section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if] the return is furnished beyond the due date specified under sub-section (1) of section 139; or*
>
> *(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:*
>
> *Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:*
>
> *Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made:*
>
> *Provided also that no adjustment shall be made under sub-clause (vi) in relation to a return furnished for the assessment year commencing on or after the 1st day of April, 2018;*
>
> *(b) the tax, interest and fee, if any, shall be computed on the basis of the total income computed under clause (a);*
>
> *(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (b) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under section 89, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;*
>
> *(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and*
>
> *(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:*

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him:

Provided further that no intimation under this sub-section shall be sent after the expiry of [99][nine months] from the end of the financial year in which the return is made.

Explanation.—For the purposes of this sub-section,—

(a) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).”

7. In our considered view, the CPC has correctly processed the return of income under section 143(1)(a)(ii) of the Act r/w the Explanation (a)(i) and (a)(ii). The learned A.R. fairly accepted the mistake in filing the return of income Schedule–EI was not filled. The communication of proposed adjustment dated 01/01/2019, was not responded within 30 days. The entire profit claimed as agricultural income for ₹ 1,15,69,580, was not reported as exempt income in Schedule–E1. Hence, the CPC was justified in making the adjustment, because the claim was inconsistent with item in the return of income. Rectification under section 154 of the Act is not obligatory on the part of the Assessing Officer if clear data is not available and in this regard we rely on the judgment of the Hon’ble Supreme Court passed in Anchor Processing Pvt. Ltd. v/s CIT, [1986] 161 ITR 159 (SC). The assessee failed to submit revised return of income under section 139(5) of the Act to take care of the omission in the original return of income. This is an appeal against order

passed by the Assessing Officer under section 154 of the Act. The scope is narrow and constricted and merits of claim need not be explored. The learned Authorised Representative pressed that the income was accepted to be exempt as agricultural income in the assessment order passed under section 143(3) of the Act. But at this stage, we are precluded from examination of the merit of the claim. The learned Departmental Representative rightly pointed out that when the assessee himself has conceded the mistake before the learned CIT(A), he has no arguable case any further. The appeal has no merits since there is no patent and manifest error amenable for rectification and hence liable to be dismissed. Thus, we are in consonance with the order passed by the learned CIT(A) who upheld the order passed by the CPC. Accordingly, all the grounds raised by the assessee in this appeal are dismissed.

8. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 14/08/2024

Sd/-	**Sd/-**
V. DURGA RAO	**K.M. ROY**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

NAGPUR, DATED: 14/08/2024

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.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

Sr. Private Secretary
ITAT, Nagpur