IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1306/PUN/2019
निर्धारण वर्ष / Assessment Year: 2013-14

Divyadatta Digamber Nagari Sah. Patsanstha Ltd., Moti Heights, Azad Chowk, Koregaon, Satara- 415501. PAN : AAEAS1871L	Vs.	ITO, Ward-3, Satara.
Appellant		Respondent

Assessee by	:	Shri M. K. Kulkarni
Revenue by	:	Shri Arvind Desai
Date of hearing	:	25.05.2022
Date of pronouncement	:	01.06.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee’s appeal for assessment year 2013-14 arises against the CIT(A)-4, Pune’s order dated 24.06.2019 passed in case no. PN/CIT(A)-4/Ward- 3, Satara/479/2017-18/188 involving proceedings u/s 154 of the Income Tax Act, 1961; in short the Act.

Heard both the parties. Case file perused.

2. It transpires during the course of hearing that the assessee’s sole substantive grievance challenges correctness of both the lower authorities’ action rejecting its section 154 rectification filed on 26.07.2017 thereby disallowing section 80P deduction claim therein

of Rs.34,39,055/-. The CIT(A) detailed discussion affirming the Assessing Officer's action to this effect reads as under :-

> *"6.3 DECISION: The observations of the AO, submissions of the appellant and the material on record have been considered. Since all the Grounds of Appeal No. 1, 2 & 3 are inter-linked, they are taken up together.*
> *6.3.1 The return of income was filed by the appellant on 27.09.2013 declaring an income of Rs. 34,90,055/-. Intimation u/s 143(1) of the Act was passed on 27.04.2014 assessing the total income at Rs. 34,39,060/- thereby raising a demand of Rs. 12,13,170/-. Subsequently, vide application u/s 154 of the Act dated 26.07.2017, the appellant requested for allowing deduction u/s 80P of the Act of Rs. 34,39,055/-. The AO, vide order u/s 154 of the Act dated 5.01.2018, rejected the application of the appellant as it had not claimed the deduction in its return of income.*
> *6.3.2 After due consideration of the facts and circumstances, mentioned above, as also from the Intimation u/s 143(1) dated 27.04.2014 and order u/s 154 of the Act dated 5.01.2018, it is abundantly clear that the appellant did not claim deduction u/s 80P of the Act of Rs. 34,39,055/- in its return of income. It is also clear that the appellant has not bothered to file a revised return of income when it had the opportunity to do so in order to claim the deduction u/s 80P. Therefore, the AO has rightly rejected the appellant's rectification application. The appellant's case is squarely covered by the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. Vs. Commissioner of Income Tax (2006) 284 ITR 323 wherein it is held that AO does not have a power to entertain additional claim, unless such a claim is made in the revised return filed within the due date for revised return.*
> *6.3.3 The CBDT Circular No. 689 mentioned by the appellant in its ground of appeal is pertaining to processing under the erstwhile Section 143(1)(a) of the Act whereas the appellant's case relates to Intimation u/s Section 143(1) of the Act. Further, the decisions relied upon by the appellant in his grounds of appeal and submissions can be differentiated on facts. Most of the decisions pertain to the period in which processing was there under the erstwhile Section 143(1)(a) of the Act. Further, the decisions also relate to cases where scrutiny assessment was undertaken whereas in the appellant's case only Intimation u/s 143(1) of the Act was completed. It is also worth mentioning that the appellant has relied on the judgement in the case of Gammon India Ltd. Vs. C1T (1995) 214 ITR 50 (Bom) which is actually in favour of Revenue.*
> *6.3.4 In light of the facts and circumstances, as above, the AO has correctly rejected the appellant's application u/s 154 of the Act since there was no mistake apparent from record. Accordingly, Ground of Appeal Nos. 1, 2 and 3, raised by the appellant, stand DISMISSED."*

3. Learned authorized representative could hardly dispute the clinching fact that the assessee had not raised the impugned section 80P deduction claim in its return of income filed u/s 139(1) of the Act which forms a mandatory condition u/s 80A(5) r.w.s. 80AC of the Act as per hon'ble jurisdictional high court recent decision in (2019) 107 taxmann.com 220 (Bom) M/s. EBR Enterprises vs. Union of India deciding the issue in Revenue's favour. I therefore reject the assessee's instant sole substantive grievance as well as the main appeal for this precise reason alone.

4. This assessee's appeal is dismissed in above terms.

Order pronounced on this 01st day of June, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 01st June, 2022.
Sujeet (DOC)

<u>आदेश की प्रतिलिपि अग्रेषित **/ Copy of the Order forwarded to :**</u>

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.