

Higher taxes couldn't be recovered from assessee if he mistakenly reported his income on higher side

Summary – The Rajkot ITAT in a recent case of Rupam Impex., (the Assessee) held that Tax cannot be levied on assessee at a higher amount or at a higher rate merely because assessee, under a mistaken belief or due to an error, offered income for taxation at that amount or that rate

Facts

- For relevant year, the Assessing Officer completed assessment in case of the assessee 143(3). Subsequently, the assessee filed an application seeking rectification of assessment order on ground that incorrect figures of net profit and, depreciation, which was required to be added back to said profit, had been picked up from profit and loss account.
- The Assessing Officer rejected said application on the ground that the assessee himself had computed the income on the basis of incorrect figures.
- The Commissioner (Appeals) reversed the action of the Assessing Officer and directed him to rectify the mistakes under section 154.
- On revenue's appeal:

Held

- This is a case in which the figures set out in the assessment order are admittedly incorrect. What is stated to the profit as per profit and loss account is not the profit as per the profit and loss account. It is profit as stated to be, in the computation of income by the assessee though wrongly, the profit as per profit and loss account, but clearly at variance with the profit and loss account on the assessment record. Clearly, the Assessing Officer did not even apply his mind to the material on record. He did a simple cut and paste job from the statement of taxable income filed by the assessee. The starting point of his computation of income was incorrect, he accepts it but still feels shy of giving effect to the natural corollaries of discovering this mistake. If there is a mistake, it is to be rectified. There cannot be any justification of Assessing Officer's inertia in this respect. The same is the position with respect to the depreciation figure, and the same is the stand of the Assessing Officer.
- A lot of emphasis is placed on the fact that the mistake was committed by the assessee himself which has resulted in the error creeping in the assessment order as well. Instead of being apologetic about the complete non-application of mind to the facts and making a mockery of the scrutiny assessment proceeding itself, the Assessing Officer has justified the mistake on record on the ground that it is attributed to the assessee. The income tax proceedings are not adversarial proceedings. As to who is responsible for the mistake is not material for the purpose of proceedings

under section 154; what is material is that there is a mistake- a mistake which is clear, glaring and which is incapable of two views being taken.

- The fact that mistake has occurred is beyond doubt. The fact that it is attributed to the error of the assessee does not obliterate the fact of mistake or legal remedies for a mistake having crept in. It is only elementary that the income liable to be taxed has to be worked out in accordance with the law as in force. In this process, it is not open to the Revenue authorities to take advantage of mistakes committed by the assessee. Tax cannot be levied on an assessee at a higher amount or at a higher rate merely because the assessee, under a mistaken belief or due to an error, offered the income for taxation at that amount or that rate. It can only be levied when it is authorised by the law, as is the mandate of Art. 265 of the Constitution of India. A sense of fair play by the *field* officers towards the taxpayers is not an act of benevolence by the *field* officers but it is call of duty in a socially accountable governance.
- When the first appellate authority gives relief in such deserving cases, the agony of the taxpayer is not allowed to come to an end. The appeals against the relief granted by the first appellate authority are filed as a matter of routine. One can understand the young Assessing Officers being overzealous in their approach and making such mistakes, something is needed to be done to ensure that the appeals are not filed before the higher forums as a matter of routine. Only if the field authorities are little more cautious, and stay away from such pedantic approach, such thoughtful initiatives and pragmatic approach of the Government, at the highest level, will earn more goodwill and greater trust at the ground level.
- In the result, the appeal is dismissed.