Failure to claim deduction in ITR wasn't mistake apparent from record; rectification u/s. 154 couldn't be invoked

Summary – The High Court of Madras in a recent case of Lakshmi Card Clothing Mfg. Co. (P.) Ltd., (the Assessee) held that where assessee itself failed to make claim for deduction under section 80-I in its return, same was not a mistake which was apparent from record, thus, there was no scope for invoking provisions of section 154 so as to grant deduction under section 80-I

Facts

- The assessee-company filed its return of income for the relevant assessment year. A notice under section 143(1)(a) was issued and the assessment was completed under section 143(3). The assessee filed a petition under section 154, contending that the assessment suffered from a mistake apparent on the face of the record and was required to be rectified. In the said petition, the assessee contended that for the subsequent assessment year, the claim for deduction under section 80-I was allowed. And based on the said order, the assessment order for the relevant assessment year, should be rectified.
- While the petition under section 154 was pending before the Assessing Officer, a notice was issued under section 148 to reopen the assessment for the year 1994-95 on certain grounds. In response to such notice, the assessee filed its return of income. However, in the said return of income, the assessee did not make claim for deduction under section 80-I as claimed by them in the petition for rectification. In the meantime, the re-assessment proceedings were concluded and the assessment order was passed under section 143(3) read with section 147.
- On appeal, the Commissioner (Appeals) upheld the reassessment order.
- On further appeal, the Tribunal, allowed the assessee's appeal and quashed the re-assessment proceedings and held that the re-assessment was a clear case of change of opinion. However, the merits of the matter on the questions, which were framed by the revenue, which included the claim for deduction under section 80-I, were not gone into and the court held that it was unnecessary.
- On appeal to the High Court:

Held

- The assessee cannot plead any ignorance, especially when they admitted that they had made such a claim for the assessment years 1991-92, 1992-93, 1993-94 and 1995-96. If the argument of the assessee is accepted, then it will be stretching the assessee beyond what is required to be done by the Assessing officer. Admittedly, the assessee is a company registered under the Companies Act, having a large turnover and team of financial and legal experts and definitely the assessee cannot plead ignorance, nor can the assessee argue that the Assessing Officer should have granted the relief, which the assessee himself has not claimed in the return.

- All the facts of the case clearly show that the assessee did not make any claim for deduction under section 80-I, for the relevant assessment year. It is for the assessee to file his return. Apart from that the power under section 154 is exercisable only when the mistake is manifest and could be identified by a mere look, which does not need a long drawn out process of reasoning and a mere mistake by itself cannot be a ground to invoke section 154. The assessee has not been able to satisfy this court that what has been pointed out in the petition under section 154, is a mistake, which is apparent from the record. It is not a mistake which could be identified by a mere look, since there was no claim made by the assessee for deduction under section 80-I.