

Income Tax Deduction not claimed in Original Assessment Proceedings can't be claimed during Re-assessment: Karnataka High Court

FACT OF THE CASE

- The appellant, GMR Infrastructure Ltd. is a Company incorporated under the Companies Act, 1956 and is engaged in the promotion of infrastructure developments.
- The appellant filed its return of income for the Assessment Year 2007-08 declaring returned loss under normal provisions and negative book profit as per the provisions of Section 115JB of the Act. An order of assessment was passed under Section 143(1) of the Act. Thereafter, an application was filed under Section 154 of the Act before the Assessing Officer pointing out the discrepancy in the short grant of TDS credit. An order of rectification was passed by which a refund was granted.
- Thereafter, a search and seizure operation under Section 132 of the Act was initiated and a notice under Section 153A of the Act was issued. The appellant filed a letter requesting to treat the original return of income filed under Section 139(1) of the Act as returned income in response to notice under Section 153A of the Act. Thereafter, notices under Sections 143(2) and 142(1) were issued to the assessee. Another notice under Section 142(1) of the Act was issued by which the assessee was required to furnish various details. The assessee filed a detailed reply to the notices.
- The AO determined the total income at Rs. Nil as against the amount of returned loss of Rs.5,87,56,498/- under normal provisions of the Act. The Assessing Officer, in the order of assessment, made the interest and administrative expenses under Section 14A of the Act to the extent of Rs.18,74,89,400/- by reference to the formula prescribed under Rule 80D of the Income Tax Rules. The Commissioner of Income Tax (Appeals) affirmed the order passed by the Assessing Officer.
- The assessee thereupon filed an appeal before the Tribunal.
- Mr. Balram R.Rao, counsel for the assessee submitted that the Tribunal erred in not appreciating that having regard to the second provision to Section 153A, the completed assessment cannot be disturbed only in the case where there is any undisclosed income found in the course of search or any incriminating documents disclosing any undisclosed income.

DECISION OF THE CASE

- The division bench of Justice Alok Aradhe and Justice Hemant Chandangoudar held that the assessment or reassessment made in pursuance to Section 153A of the Act is not a de novo assessment
- Therefore, it was not open to the assessee to claim and be allowed such deduction or allowance of expenditure which it had not claimed in the original assessment proceedings which in the case of the assessee stood completed vide order dated 15.01.2009 passed under Section 143(1) of the Act.