

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, AHMEDABAD**

**BEFORE DR.BRR KUMAR, VICE PRESIDENT  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. Nos.1062 to 1064/Ahd/2023  
(Assessment Years: 2009-10, 2015-16 & 2016-17)

Acacia Biotech Limited, 316 Satyam Mall, Nr. Kameshwar School, Jodhpur Cross Road, Satellite, Ahmedabad-390015.	Vs.	Income Tax Officer, Ward-1(1)(1), Ahmedabad.
[PAN No.AAFCA2710F]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Vinit Moondra, A.R.
<b>Respondent by:</b>	Shri B.P Srivastava, Sr. DR
<b>Date of Hearing</b>	26.11.2024
<b>Date of Pronouncement</b>	05.12.2024

**ORDER**

**PER: DR. BRR KUMAR, VICE PRESIDENT:**

These appeals have been filed by the Assessee against the separate order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, vide order dated 30.10.2023, passed for the Assessment Years (2009-10, 2015-16 & 2016-17). Since the issue involved in all the three appeal are common, we extract the grounds of appeal raised in ITA No.1062/Ahd/2023 for AY 2009-10 for the purpose of adjudication.

2. The Assessee has taken the following grounds of appeal:-

1. *In his order u/s.154, the Ld.AO has erred in law by rejecting the claim of deduction u/s.80IC of Rs.77,54,510/- on the grounds that unit of the assessee is not located in the eligible physical location as per the notification of CBDT, inspite of the fact that the CBDT notification has been submitted before him, he has captured the same in his order and also examined the location. The CIT(A) has erred in law by confirming the above addition.*

3. The Assessing Officer has passed order u/s.154 of the Act rejecting the claim of the assessee for deduction u/s.80IC of the Act, on the ground that the unit of the assessee is not located in the eligible physical location as per the notification of the CBDT. We find that the assessee has filed 10CCB report wherein the assessee stated the address to be “*Khasra No.373, Village **Rudrapur**, area locality Rudrapur, Dist. Udham Singh Nagar, Uttranchal*” whereas the details filed by the assessee shows that the unit is located in village **Kalyanpur**.

4. Aggrieved by the order of the Assessing Officer, the assessee has filed appeal before the ld. CIT(A) who dismissed the appeal of the assessee.

5. Aggrieved, the assessee filed appeal before the Tribunal.

6. Before us, the ld. AR for the assessee argued that the issue in A.Y 2011-12 to 2013-14 are pending before the Ld.CIT(A) and also pertains to disallowance of claim u/s.80IC of the Act in the order passed u/s.154 of the Act based on the difference in the name of villages **Rudrapur and Kalyanpur** and nothing beyond. On the other hand, ld. DR supported the order of the AO and the Ld.CIT(A) and also pointed out that the issue has been taken up in the assessment proceedings for the Assessment Years 2011-12 to 2013-14 and the claim of the assessee has not been accepted. The Ld. Counsel argued that it was the mistake, it should be Rudrapur instead of Kalyanpur as Rudrapur and Kalyanpur form one conglomerate of Rudrapur City.

7. We have gone through the submission filed by the assessee as well as record relied upon by the Revenue. The difference between the Rudrapur

Centre to Kalyanpur is 6.1 km. We have gone through the CBDT notification No. 283/2006 dated 03.10.2006 wherein the Dist. Udham Singh Nagar, village Kalyanpur and Kichha with survey no.372 to 482 have been notified to be eligible industrial areas for the purpose of claim of deduction u/s. 80IC of the Income tax Act 1961. Further, the assessee has also submitted certificate from State Infrastructure and Industrial Development Corporation of Uttarakhand (SIDCUL) wherein the khasra no./plot no. 20, sector 3 has been re-designated as khasra no.373 in the revenue village Kalyanpur, Dist. Udham Singh Nagar. We have also gone through District wise details of Industrial Estates and Industries established therein by the Uttarakhand Government wherein the assessee's name is found at serial no.7 plot no.20 and area 1992 square meter. We find that that the entire confusion arose because of the mistake of the assessee mentioning as Rudrapur instead of Kalyanpur in the form 10CCB. Rudrapur being the Municipal limit, Kalyanpur is the village in the Tehsil Kichha being survey no.373 in village Kalyanpur has been duly notified as an eligible area for claim u/s.80IC of the Act. Since the fact proves that the establishment of the assessee is in the eligible area, the appeal of the assessee is hereby allowed.

8. This case signifies the lack of judgement among the official undermining the efficiency, equity and credibility of the taxation system. The weak standards and lack of accurate mechanism can lead to bias judgement. Inefficient and poor decision making can lead to prolonged disputes, backlog of cases and higher litigation cost for the assessee as well as for the Revenue Department. This ultimately leads to fostering of resentment and impedes discharge of voluntary compliances. Such overly

aggressive action may drive the tax payer to deflate public trust and fairness of assessment. The tax official must primarily rely on the facts as per the record to ensure fairness. Focus should be on the material aspects that directly impact the correct collection of taxes. Striking this balance is essential to maintain the integrity of the tax system while upholding the tax payers' rights and promoting compliance. In this case, the allowability of the deduction primarily beyond the jurisdiction of the provisions of Section 154 of the Act. Further, in spite of the robust evidences filed by the assessee before the Assessing Officer, the Assessing Officer chose to act in an unjustifiable manner. The action of the Assessing Officer and the Id. CIT(A) calls for examination of the records administratively to fix the responsibilities of the officials concerned.

9. In the result, the appeals of the assessee are allowed.

<b>This Order pronounced in Open Court on 05.12.2024</b>
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Sd/-

**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 05.12.2024

Sd/-

**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

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आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad