

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

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1027/PUN/2025
निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Fiat India Automobiles Private Limited, B-19, Ranjangaon, MIDC Industrial Area, Ranjangaon, Taluka- Shirur, Pune- 412220. PAN : AAACF1716D	Vs.	ACIT, Circle-1(1), Pune.
Appellant		Respondent

आयकर अपील सं. / ITA No.1098/PUN/2025
निर्धारण वर्ष / Assessment Year : 2014-15

DCIT, Circle-1(1), Pune.	Vs.	M/s. Fiat India Automobiles Private Limited, B-19, Ranjangaon, MIDC Industrial Area, Ranjangaon, Taluka- Shirur, Pune- 412220. PAN : AAACF1716D
Appellant		Respondent

Assessee by : Shri Percy Pardiwalla
Revenue by : Shri Amol Khairnar

Date of hearing : 03.12.2025
Date of pronouncement : 08.01.2026

आदेश / ORDER**PER VINAY BHAMORE, JM:**

These cross appeals filed by the assessee as well as by the Revenue are directed against the order dated 07.02.2025 passed by Ld. CIT(A), Pune-13 ['Ld. CIT(A)'] for the assessment year 2014-15 respectively.

2. Facts of the case, in brief, are that the assessee is a company engaged in the business of manufacturing and selling of passenger cars, engine and gearbox and has furnished its return of income on 27.11.2014 declaring loss at Rs.Nil after setting off of losses of Rs.22,68,34,573/-. Scrutiny assessment u/s 143(3) r.w.s. 144C(1) of the IT Act was completed on 23.12.2017 after making addition of Rs.3,08,92,38,550/- and setting off of brought forward losses of Rs.3,31,61,06,544/- determining income at Rs.Nil. The assessed income was taxed u/s 115JB of the IT Act. Subsequently, the Assessing Officer issued notice u/s 154 of the IT Act and proposed to rectify the assessment order dated 23.01.2017 passed u/s 143(3) r.w.s. 144C(1) of the IT Act. Since according to the calculation of the Assessing Officer, the assessee has no brought forward loss

available to adjust from book profits in MAT provisions, however the assessee company reduced business loss of Rs.139 crores from business profits as per clause 3 of Explanation below section 115JB(2) of the IT Act.

3. After considering the submissions of the assessee, the Assessing Officer passed the rectification order dated 31.03.2022 u/s 154 r.w.s. 143(3) of the IT Act and determined deemed total income u/s 115JB of the IT Act at Rs.2,39,02,89,117/- and raised a demand of Rs.40,68,51,701/- as against Nil demand raised in the original assessment order.

4. Being aggrieved with the above rectification order dated 31.03.2022 passed u/s 154 of the IT Act, the assessee preferred an appeal before Ld. CIT(A). After considering the reply of the assessee, Ld. CIT(A) vide order dated 07.02.2025 partly allowed the appeal filed by the assessee & remanded the matter back to the file of the assessing officer to recompute the book profit by observing as under :-

“4.3 Findings and Reasons

I have carefully perused and considered the facts of the case, arguments of the AO and contentions, submissions, including the evidences and case-laws furnished by the appellant.

This ground relates to the adjustment of entire loss of Rs. 300 crores from the brought forward loss without taking into account that there was unabsorbed depreciation which, according to the appellant, ought to have been considered by the Assessing Officer.

The Assessing Officer has also noted that the working done by the company is not based or supported by any provision, rule or circular/instruction.

The AO in his calculation of the book profit of the appellant, in absence of any specific methodology prescribed under the Act, resorted to the sound basis of 'First-in, First-out' (FIFO) method as is done in the case of calculation of capital gains under the Act, in addition it being a recognised accounting principle. Therefore, the AO, in the process of calculation of correct book profit on account of reduction in capital applied the FIFO principle to the business loss which first existed / occurred in the books of account of the appellant.

In the Extraordinary General Meeting (EGM) of the appellant the capital reduction scheme was resolved in the following words -

"the amount of Rs 300,00,00,000/- (three Hundred crore only) standing to the debit under the head "profit & Loss Account" (representing accumulated book losses) be adjusted to the extent of Rs. 175,23,17,500/- (One Hundred and Seventy-Five Crores Twenty-Three Lacs Seventeen Thousand and Six Hundred only) against the Securities premium balance of the company and balance of Rs. 124,76,82,400/- (One Hundred and Twenty-Four crores Seventy-Six Lacs Eighty-Two Thousand and Four Hundred only) against the issued, subscribed and paid-up equity share capital of the company by way of reduction of 1,24,76,824 equity shares of Rs. 100/- each fully paid, proportionately for all equity shareholders'

The above scheme was approved by the Hon'ble Bombay High Court.

As regards the scheme itself is concerned it must be noted that neither the scheme as resolved by the appellant nor as approved by the Hon'ble High Court contain a direction as to the particular manner in which the capital so reduced is to be applied to the book loss. In absence of such a direction, the application of FIFO by the Assessing Officer to the book loss appears to be a correct approach.

However, the approach of the Assessing Officer to apply all the capital reduction amount of Rs. 300 crore only to the business loss (as it first existed in AY 2009-10) is fallacious since it is matter of basic knowledge that book loss comprises of both business loss as well as unabsorbed depreciation. As such he should have applied the capital reduction amount of Rs. 300 crore to both business loss and

unabsorbed depreciation in the same proportion as they then existed (first) on the books of the appellant on the FIFO basis. Thus, correct methodology in this regard would be to apply capital reduction amount to book loss in the proportion of Rs. 11911.73 (unabsorbed depreciation) to Rs. 48906.16 (business loss) in AY 2009-10.

In the passing it must be mentioned that reliance of the appellant on the decision of Hon'ble Delhi High Court in the case of CIT v. Sumi Motherson Innovative Engineering Limited (195 Taxmann 353) (2010) is misplaced since that case laid down the principle as to what is meant by brought forward loss and which is the date on which it is to be reckoned with. It did not lay down any principle based on which the issue (apportionment of capital reduction) in the instant case of the appellant can be dealt with.

Therefore, in view of the above, the AO is directed to recompute the book profit (loss) adopting the methodology discussed above.

This ground of the appellant is partly allowed.”

5. It is the above order against which the assessee is in appeal and the Revenue is in cross appeal before this Tribunal.
6. First, we shall take up the appeal of the assessee in ITA No.1027/PUN/2025 for adjudication.

ITA No.1027/PUN/2025 – By Assessee :

7. The appellant has raised the following grounds of appeal :-

“The grounds mentioned herein below are independent of and without prejudice to one another.

1. Ground No. 1

- 1. On the facts and circumstances of the case and in law, learned Commissioner of Income-tax (Appeals) ['Ld. CIT(A)'] has erred in not quashing the order passed by the Learned Assistant Commissioner of Income-tax, Circle 1(1), Pune ('Ld. AO') under section 154 of the Income-tax Act, 1961 ('the Act'), not appreciating that the adjustment of loss in the calculation of*

book profit under section 115JB of the Act on account of capital reduction, is a matter of debate and cannot fall within the scope of the provisions of section 154 of the Act in the absence of any mistake apparent from record.

The Appellant prays that the rectification order under section 154 of the Act be treated as bad in law, null and void and therefore the same be quashed.

2. *Ground No. 2*

On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in directing the Ld. AO to reduce the loss on account of capital reduction amounting to INR 300 crores from, and in the proportion of, the business loss and unabsorbed depreciation pertaining to AY 2009-10 and recompute the book profit/ (loss) under section 115JB of the Act for the year under consideration accordingly.

The Appellant prays that the directions issued by the Ld. CIT(A) to the Assessing Officer be held to be erroneous and the adjustment made by the Appellant to the book profits on account of unabsorbed depreciation / brought forward business loss be upheld.

3. *Ground No. 3*

On the fact and in the circumstances of the case and in law, the Ld. CIT(A)/Ld. AO has erred in levying interest of INR 35,16,386/- under section 234A of the Act.

The Appellant prays that the interest under section 234A of the Act could not have been levied as the return was filed within the due date and therefore the levy is unwarranted and the same be deleted. Alternatively, the interest may be consequentially reduced.

4. *Ground No. 4*

On the fact and in the circumstances of the case and in law, the Ld. CIT(A)/Ld. AO has erred in levying interest of INR 8,26,35,071/- under section 234B of the Act.

The Appellant prays that the interest under section 234B of the Act is unwarranted and the same be deleted and/or correspondingly reduced.

5. *Ground No. 5*

On the facts and in the circumstances of the case and in law, the Ld. AO has erred in initiating penalty proceedings under section 274 read with section 271(1)(c) of the Act.

The Appellant prays that the penalty proceedings be quashed.

The Appellant craves leave to add, alter, amend, substitute or withdraw all or any of the Grounds of appeal herein and to submit such statements, documents and papers as may be considered necessary either at or before the appeal hearing so as to enable the Hon'ble Tribunal members to decide the appeal according to the law."

8. Ld. Senior Counsel appearing from the side of the assessee argued at length in support of grounds of appeal & also furnished written submission in support of his contentions, the relevant portion of written submission is reproduced below :-

“

The issue raised in Grounds No. 1 and 2 of the assessee's appeal and Grounds No. 1 and 2 in Department's appeal is with respect to amount which the assessee was entitled to reduce in terms of clause (iii) of Explanation to section 115JB of the Income-tax Act, 1961 ("the Act") in computing the book profits for the assessment year 2014-15.

Grounds No. 1 and 2 in the assessee's appeal read as under:

1. Ground No. 1:On the facts and circumstances of the case and in law, learned Commissioner of Income-tax (Appeals) ['Ld. CIT(A)'] has erred in not quashing the order passed by the Learned Assistant Commissioner of Income-tax, Circle 1(1), Pune ('Ld. AO') under section 154 of the Income-tax Act, 1961 ('the Act'), not appreciating that the adjustment of loss in the calculation of book profit under section 115JB of the Act on account of capital reduction, is a matter of debate and cannot fall within the scope of the provisions of section 154 of the Act in the absence of any mistake apparent from record.

The Appellant prays that the rectification order under section 154 of the Act be treated as bad in law, null and void and therefore the same be quashed.

2. Ground No. 2: On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in directing the Ld. AO to reduce the loss on account of capital reduction amounting to INR 300 crores from, and in the proportion of, the business loss and unabsorbed depreciation pertaining to AY 2009-10 and recompute the book profit/ (loss) under section 115JB of the Act for the year under consideration accordingly.

The Appellant prays that the directions issued by the Ld. CIT(A) to the Assessing Officer be held to be erroneous and the adjustment made by the Appellant to the book profits on account of unabsorbed depreciation / brought forward business loss be upheld.

Section 115JB of the Act, insofar as relevant for the present purposes and as applicable for AY 2014-15, reads as under:

Section 115JB:

- (1) Notwithstanding anything contained in any other provision of this Act. where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April 2012, is less than eighteen and one-half per cent of its book profits, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of eighteen and one-half per cent.

...

Explanation 1. – For the purposes of this section, “book profit” means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2), **as increased by –**

- (a) To (k) .. (not reproduced here for sake of brevity)

... **and as reduced by, -**

...

- (iii) **the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.**

Explanation. – For the purpose of this clause, -

- (a) The loss shall not include depreciation;
(b) The provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil.

Therefore, by virtue of clause (iii) of Explanation 1 to section 115JB of the Act, the assessee is entitled to reduce its book profits by the amount of loss brought forward or unabsorbed depreciation, whichever is less, as per books of account.

Factual Background as relevant for Assessment Year (AY 2013-14)

- During the previous year relevant to AY 2013-14, a capital reduction scheme of the assessee was sanctioned by the Hon’ble Bombay High Court vide order dated 14 September 2012 (refer Page No 96 to 99 of the appeal set). Pursuant thereto, the assessee reduced in its books of account for the year ended 31 March 2013 an amount of INR 300 crores being the debit balance in the profit and loss account partly

against the securities premium balance and partly against equity share capital.

- *As the scheme did not specify the manner in which the brought forward business loss (“BFL”) and unabsorbed depreciation (“UD”) were required to be reduced for the purposes of Explanation (iii) to section 115JB of the Act, on a conservative and rational basis, the assessee, in its return of income for AY 2013-14 filed on 26th November 2013, reduced the amount of INR 300 crores in the ratio of BFL and UD (refer Page No 64 of the appeal set). After such set off, UD of INR ~481.74 crore and BFL of ~ INR 138.57 crore were carried forward to future years. A detailed note explaining the above treatment was given along with computation of income in Note No. 5 (pages 65 and 66 of the appeal set).*
- *The assessee’s return of income for AY 2013-14 was selected for scrutiny. During the course of the assessment proceedings, pursuant to a requisition from the Assessing Officer (“AO”), the assessee submitted its computation of income (under normal and MAT provisions) vide submission dated 09th September 2016 along with the note on computation of UD and BFL. (refer Page No 56 to 67 of the appeal set).*
- *The AO passed an order dated 31st January 2017 u/s 143(3) r.w.s. 144C(3) wherein various additions in respect of transfer pricing and corporate tax issues were made (refer Page No 100-112 of the appeal set). The AO accepted the book profit computed by the assessee as per section 115JB of the Act. Therefore, the carry forward of UD of INR ~481.74 crore and BFL of ~ INR 138.57 crore to future years became final.*

Factual background as relevant for Assessment Year 2014-15)

- *The assessee filed its return of income for AY 2014-15 on 27th November 2014 wherein book profit was computed after reduction of BFL of ~ INR 138.57 crore, being lower of the two as brought forward from AY 2013-14. (A copy of the computation of total income under normal provisions as well as MAT was tendered in the course of the hearing on 3 December 2025 and a copy of the same is enclosed as **Annexure A** for ready reference). The return was selected for scrutiny and the income was assessed u/s 143(3) r.w.s. 92CA(4) of the Act and additions in respect of transfer pricing and corporate tax issues were made vide assessment*

order dated 23rd December 2017 (refer Page No 68-77 of the appeal set). There was no adjustment to the book profit as per section 115JB of the Act as computed at by the assessee wherein BFL of ~INR 138.84 crore brought forward from AY 2013-14 was set-off in computing the book profit.

- Thereafter, on 24 February 2021, the AO issued a notice u/s 154 (refer Page No 53 of the appeal set) proposing to deny the reduction of BFL of ~ INR 138.57 crore in computation of book profits. Despite objections of the assessee, on 31 March 2022, a rectification order was passed u/s 154 of the Act (refer Page No 28 of the appeal set) denying reduction of BFL of ~ INR 138.84 crores from the book profits.
- The AO held that the assessee had benefitted on account of the reduction of losses and in absence of any specific methodology prescribed under the Act, the adjustment should be made on a FIFO basis and held that the reduction in BFL due to capital reduction was required to be done in AY 2009-10. Accordingly, he reduced Rs. 300 crore entirely from BFL of AY 2009-10. Further, he reduced the resultant BFL of Rs. 196.44 crore entirely against the profit of Rs. 290.85 crore for AY 2013-14 and accordingly came to the conclusion that no BFL remained available for reduction against book profits of AY 2014-15. (refer Page No 37 of the appeal set). On this basis, he denied set off of Rs. 138.57 crore.
- Further, the AO levied interest under section 234A of the Act ~ INR 35.16 lakhs without appreciating the fact that the return of income for AY 2014-15 was filed on 27 November 2014, i.e., well within the due date prescribed under the Act (30 November 2014) and also levied interest under section 234B of the Act ~ INR 8.26 crore. (refer Page No 41 of the appeal set).
- The assessee appealed before the Commissioner of Income-tax (Appeals) ["CIT(A)"] and contended that (1) Rs. 300 crore was required to be reduced in the proportion of BFL and UD and the said reduction could be done only in AY 2013-14 and not in AY 2009-10 (2) the book profit of AY 2014-15 was required to be reduced thereafter by lower of the BFL or UD, i.e., by Rs. 138.84 crore as worked out in the computation of total income. The CIT(A) vide his order dated 07th February 2025 upheld the reduction of Rs. 300 crore in AY 2009-10 but directed the AO to reduce it in the proportion of UD and BFL as was available in AY 2009-10 (refer Page No 6-22, para 4.3 at page 21-22 of the appeal

set). He also directed the AO to compute the book profit of AY 2014-15 by reducing BFL and UD on a pro-rata basis.

- The assessee is aggrieved by the CIT(A)'s ruling insofar as it permits the AO to reduce the amount of Rs. 300 crore in AY 2009-10. The revenue is aggrieved by the CIT(A)'s ruling that the amount of Rs. 300 crore and the profit for AY 2014-15 are to be reduced pro-rata basis.

Submissions in brief:

On Ground 1 & 2 in the assessee's appeal

- The assessee submits that approach of the AO and CIT(A) to reduce the amount of Rs. 300 crore in AY 2009-10 by application of FIFO method is untenable. FIFO method is typically applied to stock in trade etc. and cannot be applied for effecting the reduction of BFL or UD. The event of capital reduction happened in FY 2012-13 and, therefore, the reduction has to be done in AY 2013-14 only and cannot be done in AY 2009-10.
- The AO's stand of reduction of Rs. 300 crore and also the profit of AY 2013-14 only from BFL is untenable. The reductions have to be done on a proportionate basis as held by the CIT(A) since the losses as per books of account of the assessee are comprised of business loss as well as depreciation.
- Having accepted the assessee's position for AY 2013-14 and permitting the carry forward of UD and BFL to AY 2014-15 in the manner claimed by the assessee, the AO cannot change the stand in AY 2014-15.
- In any event, whether FIFO method should be followed or proportionate method is to be applied to reduce the losses, is a debatable issue and cannot be decided in proceedings under section 154 of the Act. Proceedings under section 154 of the Act are permissible only for rectification of a mistake apparent from the record and debatable issues where two views are possible or where a provision of the Act is required to be interpreted cannot be the subject matter of rectification.
- Reliance is placed on the judgment of the Hon'ble Calcutta High Court in the case of **PCIT v/s Lanshree Products & Services Ltd[2023]** 150 taxmann.com 389 (Calcutta) wherein the Hon'ble High Court has held that the issue of allowing of book loss or unabsorbed depreciation while computing book profit under section 115JB, being a

debatable issue, could not be subject matter of proceedings under section 154 of the Act.

- *Without prejudice to the Appellant's claim that the issue being debatable cannot be rectified as per the provisions of section 154 of the Act, it is humbly submitted that section 115JB of the Act does not prescribe the methodology to reduce the loss on capital reduction from the brought forward book losses and unabsorbed depreciation and, therefore, the assessee is entitled to choose and adopt a method to its advantage. The assessee has adopted a scientific and rational method of pro-rata reduction of BLF and UD and, therefore, its interpretation of Explanation 1(iii) to section 115JB is reasonable.*
- *Since the book loss includes the component of loss and depreciation both, the Assessee has correctly reduced the loss on capital reduction from the BFL and UD as available at the end of AY 2013-14 on a pro-rata basis.*
- *Also, making any adjustment in AY 2009-10 cannot be upheld as the Hon'ble Bombay High Court's order on capital reduction was passed only during FY 2012-13 (refer Page No 96 of the appeal set). Therefore, the reduction was rightly done by the assessee in AY 2013-14.*
- *The said adjustment of losses was duly accepted by the AO during the assessment proceedings conducted for AY 2013-14 without any objection. Subsequently, the said amounts of BFL and UD were carried forward to AY 2014-15 and set off against the book profits of the said AY which the assessee prays be allowed to it.*
- *It is submitted that loss / depreciation once set-off do not vanish from books and would continue to be available to the assessee till they are not wiped out by subsequent profits. Reliance is placed on the following decisions:*
 - *DCIT v. Binani Industries Limited [2017] 82 taxmann.com 320 (Kol)*
 - *Go Airlines (India) Ltd. vs. DCIT [2021] 127 taxmann.com 803 (Mum)*
 - *Triumph International (India) Pvt. Ltd. [2025] 180 taxmann.com 360 (Chennai)*

On Ground 3& 4

- *Since the Appellant has filed the income tax return for AY 2014-15 on 27 November 2014, well within the timelines prescribed under section 139(1) of the Act i.e. on or before 30 November 2014, the interest under section 234A cannot*

be levied. The Appellant prays that the interest levied under section 234A be deleted.

- *The assessee prays that the interest under section 234B, being purely consequential to the impugned denial of set off of loss of Rs. 138 crore, the same may be directed to be consequently deleted.*

In relation to the Departmental Appeal in ITA 1098/PUN/2025 (AY 2014-15)

- *In their grounds of appeal, the Revenue has impugned the decision of the CIT(A) that capital reduction of Rs. 300 crore was not to be adjusted against BFL on the alleged ground that the same was not in line with the provisions of section 72(2) of the Act.*
- *In this connection, the assessee humbly submits that section 115JB of the Act is a complete code in itself and other provisions of the Act are not applicable while computing the book profit as per section 115JB of the Act.*
- *Accordingly, the departmental appeal deserves to be rejected.*

Prayer

In view of the foregoing, the assessee prays that the assessee's appeal be allowed and the Revenue's appeal be dismissed."

9. Ld. DR appearing from the side of the Revenue relied on the order passed by the Assessing Officer and requested to confirm the same.

10. We have heard Ld. Counsels from both the sides and perused the material available on record including the written submission & copy of case law furnished by the assessee. On perusal of the written submission and considering the rival parties' arguments, we find force in the argument of Ld. Sr. Counsel of the assessee that the

said adjustments of losses was duly accepted by the Assessing Officer during the assessment proceedings conducted for assessment year 2013-14 without any objection. Therefore, having accepted the assessee's calculation for assessment year 2013-14 and permitting the carry forward of unabsorbed depreciation and brought forward losses to assessment year 2014-15 in the manner claimed by the assessee, the Assessing Officer cannot change the stand in assessment year 2014-15.

11. Now in 154 proceedings for assessment year 2014-15, the Assessing Officer is challenging the calculation which has become final in assessment year 2013-14 under 143(3) proceedings which is not correct since the closing balances of assessment year 2013-14 only have been carried forward to assessment year 2014-15 and therefore the Assessing Officer has no occasion to rectify in assessment year 2014-15.

12. Secondly, we find that for capital reduction scheme, Hon'ble Court has not suggested any specific method to be followed by the assessee and according to the Assessing Officer FIFO method was to be applied and according to the Ld. CIT(A), proportionate

reduction was the correct procedure. In this regard, we find that admittedly according to the Assessing Officer, no procedure is prescribed in the section or rules and no circular is available on this subject, therefore, we are of the considered opinion that the issue of allowing of book loss or unabsorbed depreciation while computing book profit u/s 115JB of the IT Act becomes debatable and beyond the scope of proceedings u/s 154 of the IT Act. In this regard, we find that Ld. Senior counsel appearing from the side of the assessee placed reliance in the case of PCIT v/s Lanshree Products & Services Ltd. (2023) 150 Taxmann.com 389 (Calcutta) wherein Hon'ble Court held that the issue of allowing of book loss or unabsorbed depreciation while computing book profit u/s 115JB of the IT Act, being a debatable issue could not be subject matter of proceedings u/s 154 of the IT Act & has dismissed the appeal filed by the revenue by observing as under :-

“8. Though the assessee relied upon the aforementioned decision, the Commissioner of Income-tax (Appeals) did not accept the same and the appeal was dismissed. The assessee carried the matter on appeal to the learned Tribunal and the Tribunal after noting the issue involved in the case and having examined the evidences and records and the income tax return of the assessee in respect of the earlier years, found that the claim made by the assessee is correct to the extent and the finding of the Commissioner of Income Tax (Appeals) cannot be sustained. More importantly, the Tribunal, in our view, rightly held so far as the issue of

allowing of book loss or unabsorbed depreciation while computing the book profit under section 115JB, the issue being a debatable issue, cannot be subject matter of proceedings under section 154 of the Act. At this juncture, it will be beneficial to refer to the decision of the Hon'ble Supreme Court in the case of T.S. Balaram, ITO v. Volkart Brothers [\[1971\] 82 ITR 50](#) wherein the Hon'ble Supreme Court has held as follows :

"From what has been said above, it is clear that the question whether section 17(1) of the Indian Income-tax Act, 1922, was applicable to the case of the first respondent is not free from doubt. Therefore, the Income-tax Officer was not justified in thinking that on that question there can be no two opinions. It was not open to the Income-tax Officer to go into the true scope of the relevant provisions of the Act in a proceeding under section 154 of the Income-tax Act, 1961. A mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long drawn process of reasoning on points on which there may conceivably be two opinions. As seen earlier, the High Court of Bombay opined that the original assessments were in accordance with law though in our opinion the High Court was not justified in going into that question. In Sathyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale [\[1960\] 1 SCR 890](#), this court while spelling out the scope of the power of a High Court under article 226 of the Constitution ruled that an error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions cannot be said to be an error apparent on the face of the record. A decision on a debatable point of law is not a mistake apparent from the record - see Sidhramappa Andannappa Manvi v. Commissioner of Income-tax [\[1952\] 21 ITR 333 \(Bom.\)](#) The power of the officers mentioned in Section 154 of the Income-tax Act, 1961, to correct "any mistake apparent from the record" is undoubtedly not more than that of the High Court to entertain a writ petition on the basis of an "error apparent on the face of the record." In this case, it is not necessary for us to spell out the distinction between the expressions "error apparent on the face of record" and "mistake apparent from the record". But suffice it to say that the Income-tax Officer was wholly wrong in holding that there was a mistake apparent from the record of the assessments of the first respondent."

9. In the above decision, the Hon'ble Supreme Court has pointed out that it was not open to the income tax officer to go into the true scope

of the relevant provisions of the Act in a proceeding under section 154 of the Act. In the case on hand, this is precisely what the Assessing Officer has done and the learned Tribunal rightly allowed the assessee's appeal. We find no ground to interfere with the order passed by the Tribunal on the said count.

10. Accordingly, substantial questions of law (B) and (C) are answered against the revenue. Consequently, the appeal (ITAT/54/2023) stands dismissed and substantial question of law (A) is unanswered as being unnecessary.”

13. Respectfully following the above Judgement passed by Hon'ble Calcutta High Court in the case of Lanshree Products & Services Ltd. (supra) wherein the judgement of Hon'ble Supreme Court T.S. Balaram, ITO v. Volkart Bros. [1971] 82 ITR 50 (SC) was followed wherein it was held that it was not open to the Income Tax Officer to go into the true scope of the relevant provisions of the Act in a proceeding under Section 154 of the Act, we are of the considered opinion that the issue of allowing of book loss or unabsorbed depreciation while computing book profit u/s 115JB of the IT Act, was a debatable issue & cannot be subject matter of proceedings u/s 154 of the IT Act.

14. Accordingly, in view of above discussion we set aside the order passed by Ld. CIT(A) & quash the rectification proceedings as well as the rectification order dated 31.03.2022 passed u/s 154 of

the IT Act as unwarranted, illegal & bad in law. Thus, the ground no.1 raised by the assessee is allowed.

15. Since we have adjudicated the legal ground i.e. ground no.1 and decided the same in favour of the assessee, the rest of the grounds i.e. ground nos.2 to 5 becomes infructuous and does not require any adjudication.

16. In the result, the appeal filed by the assessee in ITA No.1027/PUN/2025 is allowed.

ITA No.1330/PUN/2023 – By Revenue :

17. The Revenue has raised the following grounds of appeal :-

- “1) Whether on the facts and circumstances of the case the Ld CIT(A) was right in holding that the capital reduction of Rs. 300 crores was not to be adjusted against the brought forward business losses first as provided in the sub-section (2) to section 72 of the Income Tax Act, 1961?*
- 2) Whether on the facts and circumstances of the case the Ld CIT(A) is right in directing the Assessing Officer to re-compute the book profit by adjusting capital reduction of Rs. 300 Crs. from the business loss and unabsorbed depreciation on proportionate basis by ignoring the provisions of sub-section (2) to section 72 of the Income-tax Act, 1961?*
- 3) The appellant craves to add, amend, alter or delete any of the above ground of appeal during the course of appellate proceedings before the Hon'ble Tribunal.”*

18. Since we have decided the appeal filed by the assessee in its favour quashing the 154 proceedings, the appeal filed by the Revenue becomes infructuous and accordingly the appeal of the Revenue is dismissed.

19. In the result, the appeal filed by the Revenue in ITA No.1098/PUN/2025 is dismissed.

20. To sum up, the appeal filed by the assessee in ITA No.1027/PUN/205 is allowed and the appeal filed by the Revenue in ITA No.1098/PUN/2025 is dismissed, as indicated above.

Order pronounced on this 08th day of January, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 08th January, 2026.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Pune-13.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.