

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11169 OF 2024

Halliburton Technology India Private Limited .. Petitioner

Versus

Assistant Commissioner of Income Tax,
Circle 1(1), Pune & Ors. .. Respondents

UTKARSH
KAKASAHEB
BHALERAO

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**Mr. Devendra Jain a/w Saukhya Lakade i/b Radha
Halbe**, Advocates for the Petitioner.

Mr. Arjun Gupta, Advocate for the Respondents.

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**

DATE : DECEMBER 02, 2025

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition has been filed with prayers to quash and set aside the impugned order dated 20.07.2015 passed by Respondent No.1 under Section 154 of the Income Tax Act, 1961 (“**the IT Act**”) and to quash the demand raised in the intimation issued under Section 143(1) dated 11.12.2009 for the A.Y.2008-09, consequent to

which refunds pertaining to the subsequent Assessment Years have been adjusted.

3. Mr. Jain, the learned counsel appearing on behalf of the Petitioner, has put forth a series of facts relevant for the adjudication of this matter. Supplementing the same, Mr.Gupta, the learned counsel appearing on behalf of the Respondents, has put forth an affidavit-in-reply dated 03.12.2024 by one Shri Dinesh V. Honmane on behalf of Respondent No.1 and also an additional affidavit-in-reply dated 08.01.2025.

4. Taking a holistic view of the above, the facts of the case which emerge are that the Petitioner carries on business of exporting Information Technology related services and claims that it is entitled to deduction under Section 10B, being an Export Oriented Unit. It filed its Return of Income for the A.Y.2008-09 on 29.09.2008. In ‘Schedule BP’ of the Return of Income (hereinafter also referred to as ‘**ITR**’) the profit of Rs.7,43,13,330/- [Sr. No.34 of Schedule BP of the ITR] was computed and at Sr. No.35(iii) of Schedule BP of the ITR, deduction under Section 10B was claimed of the said profit (i.e. Rs.7,14,13,330/-). The disclosure with respect to claim for deduction under Section 10B of

Rs.7,14,13,330/- was also made in ‘*sr. No. a of Schedule 10B of the ITR*’ [placed at page 140 of the affidavit-in-reply]. Consequently, no tax under the regular provision of the Act was levied [as is evident from Sr. No. 2 of ‘Schedule Part-B TTI’ of the ITR – placed at page 130 of the affidavit-in-reply]. The Petitioner paid the applicable taxes consequent to the computation made in pursuance of Section 115JB [commonly known as ‘Minimum Alternate Tax’/’MAT’]. However, it appears that there was some technical glitch in the process of e-filing of the return of income, and when the acknowledgment in Form ITR-V [placed as ‘Exhibit A’ of the Writ Petition] was generated, the total income was mentioned as Rs.7,43,13,330/-. However, the tax liability related to the computation was correctly based on the computation pursuant to the provisions of Section 115JB.

5. On 04.08.2009, a notice under Section 143(2) was issued initiating regular assessment proceedings for the relevant A.Y.2008-09. The Petitioner was asked to produce documents/evidence in support of the ITR filed by it.

6. Despite the pendency of the said assessment proceedings, the ITR was processed under Section 143(1) on 11.12.2009 and an

intimation was issued wherein the total income of the Petitioner was computed at Rs.7,43,13,330/- and the tax liability thereon was computed as Rs.3,07,46,314/- as per the regular provisions of the Act. After adjusting the prepaid taxes, an aggregate sum of Rs.2,30,93,620/- was determined to be payable by the Petitioner. The claim for deduction under Section 10B was not allowed in the said intimation.

7. Vide letter dated 06.04.2010 the Petitioner filed an Application under Section 154 of the IT Act against the intimation issued under Section 143(1) pleading that the tax therein was computed as per the regular provisions of the Act, by not allowing the deduction amounting to Rs.7,43,13,330/- as claimed by it under Section 10B of the Act. It was also contended that disallowance of deduction under Section 10B is outside the scope of *prima facie* adjustments permissible under Section 143(1).

8. Vide letter dated 06.05.2010 the Petitioner filed an additional submission whereby it submitted a copy of the certificate issued by a Chartered Accountant in Form 56G in support of its claim for deduction of Rs.7,43,13,330/- under Section 10B of the Act.

9. Thereafter, against the notice which was issued under Section 143(2) [in the regular assessment proceedings], the Petitioner filed its submission dated 15.12.2011, wherein the details with respect to export invoices and Foreign Inward Remittance, relevant for claiming deduction under Section 10B, were submitted.

10. Pursuant thereto an order of assessment under Section 143(3) was passed on 20.12.2011 where no disallowance/addition to the total income was made. Further, there was no adverse variance or inference made with regard to deduction under Section 10B. In paragraph 5 of the said order, it was stated that the total income of the Petitioner was accepted. However, it was stated that the 'Returned income' was Rs.7,43,13,330/- and the 'Assessed income' was Rs.7,43,13,330/- [placed at page 152 of the affidavit-in-reply]. Further, the tax liability was computed pursuant to the provisions of Section 115JB [placed at page 149 of the affidavit-in-reply] and after adjusting the prepaid taxes the notice of demand was issued with NIL liability.

11. Vide letter dated 20.12.2012 the 'Audit Officer/LAP-IV' raised an audit objection against the order passed under Section 143(3) stating *inter alia* that the Petitioner had been allowed excess deduction

under Section 10B to the extent of Rs.2,94,88,923/- [placed at page 154 of the affidavit-in-reply].

12. Vide letter dated 30.08.2013 Respondent No.1 accepted the above referred audit objection and recommended a revision of the assessment order by invoking the provisions of Section 263 of the Act [placed at page 156 of the affidavit-in-reply].

13. Vide letter dated 04.02.2014 the Commissioner of Income Tax -I, Pune directed Respondent No.1 to initiate proceedings under Section 154 of the Act against the order of assessment [placed at page 163 of the affidavit-in-reply].

14. Consequent to the above directions, Respondent No.1 issued a notice under Section 154 on 18.02.2014 proposing to rectify the order of assessment dated 20.12.2011 alleging excess allowance of deduction under Section 10B [placed at page 164 of the affidavit-in-reply].

15. The Petitioner vide response dated 03.04.2014 stated that all the export proceeds were realized within the limitation period. The

Petitioner re-submitted the return of income, computation of income to substantiate that there was no mistake in computing the quantum of deduction under Section 10B [placed at page 86 of the Writ Petition].

16. Thereafter, directly on 02.03.2015, Respondent No.1 issued another notice under Section 154 alleging that there was an apparent mistake in computing the quantum of deduction under Section 10B [placed at page 165 of the affidavit-in-reply].

17. The Petitioner then submitted a reply on 08.05.2015 stating that all the export proceeds were realized within the limitation period of 12 months and that vide letter dated 15.12.2011 (as submitted during the assessment proceedings), it had submitted all the Foreign Inward Certificates. It was submitted that as on the date of issuance of certificate in Form 56G certain remittance were yet to be received; however, the same were duly realized within the period of 12 months (from the date of export) and were submitted before the Assessing Officer vide submission dated 15.12.2011 [placed at page 95 of the Writ Petition].

18. Thereafter, vide letter dated 23.07.2015, Respondent No.1 informed the Director General of Audit (Central), Mumbai that after examining the response submitted by the Petitioner to the notice issued under Section 154, it was noticed that vide RBI Circular RBI/2007-08/354 (AP, DIR series) and Circular No.50 dated 03.06.2008 the six month period for realization and repatriation to India of the amounts representing the full value of goods or software exported was enhanced to twelve months from the date of export. This contention of the Petitioner was found correct by the then Respondent No.1, and he accepted that the claim of deduction Rs.7.43 Crores under Section 10B was not in excess. Respondent No.1 in the said letter requested the Revenue Audit department to withdraw its objection [placed at page 169 of the affidavit-in-reply].

19. Thereafter, even the jurisdictional Principal Commissioner of Income Tax, Pune, vide letter dated 16.02.2016 [submitted on 18.02.2016] intimated the Director General of Audit (Central), Mumbai that the claim of deduction under Section 10B of Rs.7.43 Crores was correct and requested the Revenue Audit department to withdraw its objection [placed at page 171 of the affidavit-in-reply].

20. Consequent to the above, the Director General of Audit (Central) vide letter dated 22.07.2016 closed the Audit objection [placed at page 173 of the affidavit-in-reply].

21. After all this, suddenly on 12.11.2021, a notice seeking recovery of outstanding demand for A.Y.2008-09 was issued [placed at page 101 of the Writ Petition]. In response thereto, vide letter dated 27.12.2021 [placed at page 175 of the affidavit-in-reply], the Petitioner reminded Respondent No.1 to dispose of the Rectification Application which was filed by the Petitioner on 06.04.2010 and 06.05.2010 against the intimation issued under Section 143(1). However, without considering the same, refunds pertaining to A.Y.2016-17, A.Y.2018-19 and A.Y.2019-20 were adjusted against the alleged outstanding demand of A.Y.2008-09. The refund adjustment advices are placed at page 102 to 107 of the Writ Petition.

22. On 28.01.2022, Respondent No.1 generated a communication bearing a Document Identification Number for an order passed under Section 154. In the said letter, it was stated that the DIN cited therein was in respect of an order dated 28.01.2022 passed under Section 154. However, along with the said letter an order dated

20.07.2015 under Section 154 was annexed. It is stated by Respondent No.1 [in paragraph 3.8 of his affidavit-in-reply] that this order under Section 154 was prepared by the then Assessing Officer on 20.07.2015 wherein the excess claim of deduction to the tune of Rs.2,94,88,924/- was disallowed. However, he fairly stated that as per the records of the income tax department the said order was not communicated to the Petitioner.

23. In this factual backdrop, Mr.Jain, the learned counsel appearing on behalf of the Petitioner contended as under:

- (a) The claim for deduction under Section 10B to the tune of Rs.7,43,13,330/- was duly disclosed and claimed in the ITR. Further in the said ITR, no tax was computed as per the regular provisions of the Act but was computed and paid in pursuance of Section 115JB of the Act. This means that even the ITR had accepted the deduction under Section 10B under the regular provisions of the Act and the ITR computed the tax based on provisions of Section 115JB. However, for reasons unknown and beyond the control of the Petitioner, in the ITR-V generated, the Total Income was stated as

Rs.7,43,13,330/- [though the tax liability was computed as per the provisions of Section 115JB]. Mr.Jain stated that the ITR-V generated upon filing the return was faulty as the total income as per the regular provisions ought to have been computed as Rs.NIL (on account of the deduction claimed under Section 10B). The total income cannot be Rs.7,43,13,330/- because the Petitioner had claimed deduction of this amount under Section 10B.

- (b) The Return of income was processed under Section 143(1) wherein the claim for deduction under Section 10B was not allowed, and tax was computed based on the regular provisions of the Act. So as to rectify this error, the Appellant had filed a rectification application under Section 154 against the said intimation on 06.04.2010 and further submission on 06.05.2010. No response was received for the said application. Hence, it had again filed a request for disposal of the said application on 27.12.2021 which is still not disposed by the Respondents.

- (c) Even in the regular assessment proceedings the issue of the quantum of deduction under Section 10B was examined and no adverse variance or inference was made. Though, the assessment order erroneously adopted the total income as Rs.7,43,13,330/-, the tax liability was rightly computed by Respondent No.1 based on the provisions of Section 115JB. Mr.Jain submitted that the said total income must have been adopted from the faulty ITR-V or from the intimation issued under Section 143(1).
- (d) Despite the Petitioner having filed submissions to the notices issued under Section 154 dated 18.02.2014 and 02.03.2015 on 03.04.2015 and 08.05.2015, respectively, no further communication or order was ever passed/communicated to the Petitioner.
- (e) The DIN communication letter dated 28.01.2022 and the impugned order dated 20.07.2015 was uploaded on the e-filing portal on 28.01.2022. Accordingly, the said date, i.e. 28.01.2022 should be considered as the date of passing and serving of the order under Section 154.

Consequently, the said order was barred by limitation pursuant to Section 154(7) which requires passing of an order within a period of four years from the end of the year in which the impugned order sought to be rectified was passed. It is also pleaded that without any service of notice of demand as a consequence of the said rectification order, no demand can be recovered, being violative of Section 154(6) of the Act.

- (f) The intimation issued under Section 143(1) is bad in law because it did not allow the legitimate claim of deduction under Section 10B. Further, issue of whether the deduction under Section 10B can be allowed or disallowed to the Petitioner was a debatable matter (involving examination of factual and legal aspects), and hence, would not fall within the ambit of *prima facie* adjustments permissible under Section 143(1) of the IT Act.
- (g) During assessment proceedings, documents/explanation relating to the deduction under Section 10B was filed before Respondent No.1 and that the order of assessment dated

20.12.2011 was passed without making any adverse variance or inference of the same. Accordingly, since the order of assessment dated 20.12.2011 was passed subsequent to the date on which intimation under Section 143(1) (dated 11.12.2009) was issued, and after examining the claim for deduction under Section 10B, the said order of assessment under Section 143(3) would supersede the intimation issued under Section 143(1) wherein the disallowance of deduction of Rs.7,43,13,330/- was made. Accordingly, the demand raised consequent to the intimation under Section 143(1) would no longer exist.

- (h) Consequent to the order of assessment under Section 143(3), a notice of demand was issued where Respondent No.1 computed the tax liability under the provisions of Section 115JB, and after adjusting the pre-paid taxes/credits, the final amount payable was ascertained as Rs.NIL. This was rightly done because even in the ITR no tax was payable under the regular provisions on account of the deduction under Section 10B, and the taxes were paid pursuant to the provisions of Section 115JB. Thus, even the tax computation sheet

of Respondent No.1 suggests that the deduction under Section 10B was not disputed and was allowed.

24. In these facts, Mr.Jain, the learned counsel for the Petitioner submitted that the recovery of demand for A.Y.2008-09 made in the form of adjustment of refunds pertaining to A.Y.2016-17, A.Y.2018-19 and A.Y.2019-20 be set aside and the said amounts be refunded to the Petitioner with applicable interest.

25. Per contra, Mr. Gupta, the learned counsel appearing on behalf of the Respondent has brought to our notice the affidavit-in-reply dated 03.12.2024 wherein Respondent No.1 has made following vital averments:

- (a) In paragraph 3.4 of the said affidavit-in-reply it is stated that Petitioner had not made a claim for deduction under Section 10B of the IT Act in the computation of income of the ITR. However, he concedes that a claim of the said deduction was duly made in the respective schedule of the ITR.

- (b) In paragraph 3.5 of the said affidavit-in-reply, Respondent No.1 fairly admits that as per the records of the department, the Petitioner's rectification application under Section 154 dated 06.05.2010 against the impugned intimation issued under Section 143(1) dated 11.12.2009 was not disposed off till date.
- (c) In paragraph 3.6 of the said affidavit-in-reply, it is stated that the then Respondent No.1, in the regular assessment, had accepted the returned income of the Petitioner which was Rs.7,43,13,330/- and computed a demand as Rs.NIL, based on the provisions of Section 115JB of the Act.
- (d) In paragraph 3.8 of the said affidavit-in-reply, it is stated that Revenue Audit department had raised an audit objection that during the course of assessment proceedings the claim for deduction under Section 10B was excessively allowed. Accordingly, rectification proceedings were initiated by Respondent No.1 vide notice dated 18.02.2014 and 02.03.2015 to which the Petitioner had responded. It is further stated that an order under Section 154 was prepared on 20.07.2015 disallowing the alleged excess claim of

deduction under Section 10B. However, the said order was not communicated to the Petitioner at that point of time. Subsequently, the then Assessing Officer changed his view and reported to the Revenue Audit department that the export proceeds were realized by the Petitioner within the allowable time frame of 12 months, and hence, the deduction under Section 10B was rightly claimed by the Petitioner and the audit objection about the excess claim of deduction should be withdrawn. Further, even the Principal Commissioner of Income Tax made a similar request to the Revenue Audit department. Consequent to this, the Audit Objection itself was closed by the Revenue Audit Department. Respondent No.1 fairly stated that though on 28.01.2022 the Assessing Officer communicated the order under Section 154 dated 20.07.2015, however, the same had become redundant because the Assessing Officer has subsequently accepted the deduction claimed by the Petitioner [referred to in last sub-paragraph of paragraph 3.8 of the affidavit-in-reply].

- (e) It is claimed by Respondent No.1 that the demand raised in the intimation under Section 143(1) for A.Y.2008-09, was

based on the return of income wherein the total income of Rs.7,43,13,330/- was reported. He also stated that alternate remedy was available against the said intimation.

26. Today Mr. Gupta, has also tendered an additional affidavit-in-reply dated 09.01.2025 wherein Respondent No.1 has stated as under:

- (a) That the Petitioner had not claimed the deduction under Section 10B of the Act in the return of income.
- (b) That no disallowance for deduction under Section 10B was made during the processing of ITR under Section 143(1).
- (c) That in the regular assessment, the returned income was accepted and no addition/disallowance was made which was not challenged in appeal. This is a case where Respondent No.1 adopted the total income as per the return of income where claim of deduction under Section 10B was not made. Hence, the Petitioner was incorrect in stating that deduction under Section 10B was allowed vide the order of regular assessment.

- (d) That the rectification order under Section 154 was passed on an incorrect assumption of excess claim of deduction under Section 10B whereas no claim was made by the Petitioner in the return of income.
- (e) That the claim for deduction under Section 10B should not be allowed as the same was not claimed by the Petitioner in the writ petition.

27. We have heard the parties at length. Firstly, Respondent No.1 has placed strong reliance on the aspect that the Petitioner had not claimed deduction under Section 10B in the ITR. We are in complete disagreement with this argument of Respondent No.1 because of the following reasons:

- (i) The Petitioner filed its return of income for the Assessment Year 2008-09 wherein in 'Schedule BP' of the ITR the profit of Rs.7,43,13,330/- [sr. No. 34 of Schedule BP of the ITR] was computed and then a specific claim for deduction of the said amount (i.e. Rs.7,14,13,330/-] was made under Section 10B at sr. No. 35(iii) of Schedule BP of the ITR [placed at page 133 of the affidavit-in-reply].

- (ii) The said claim was also specifically made at '*sr. No. a of Schedule 10B of the ITR*' [placed at page 140 of the affidavit-in-reply].
- (iii) The Petitioner paid the applicable taxes consequent to the computation made in pursuance of Section 115JB.

28. From the above it cannot be said that the Petitioner had not claimed the deduction under Section 10B in the ITR. It was on account of this claim of deduction made by the Petitioner in the ITR that no tax pursuant to the regular provisions of the IT Act was levied [*as is evident from Sr. No. 2 of 'Schedule Part-B TTI' of the ITR - placed at page 130 of the affidavit-in-reply*], but the same were levied based on the deeming provisions of Section 115JB and was paid by the Petitioner. We notice that even though the Petitioner had duly claimed deduction under Section 10B, the ITR-V generated an acknowledgment where the total income was stated as 'Rs.7,43,13,330/-'. Further in the Schedule Part B-TTI of the ITR, the Aggregate Income was computed by the ITR filing utility as Rs.7,43,13,330/- even though the Petitioner had duly claimed deduction in Schedule BP. Also we find that there is an apparent contradiction in the assertions made in the affidavit-in-reply. In paragraph 3.4 of the affidavit-in-reply it is stated that the Petitioner

had claimed deduction in the respective schedule of the ITR, with which even we do agree. Whereas in paragraph 3.1 of the Additional Affidavit in reply it is asserted that no claim was made in the ITR with respect to deduction under Section 10B. Considering the above, we agree with the contention of Mr.Jain that the acknowledgment in ITR-V generated upon filing of the ITR suffered from an inherent error/mistake which cannot be attributable to the Petitioner. In fact, when the intimation under Section 143(1) was generated (based on the ITR) wherein the claim for deduction was disallowed, the Petitioner vigilantly filed Rectification Applications on 06.04.2010 and 06.05.2010, and which are not disposed of till date.

29. Secondly, the aspect of the deduction under Section 10B was scrutinized by Respondent No.1 even during the regular assessment proceedings where the Petitioner had submitted the requisite details about the claim for deduction made under Section 10B vide its submission dated 15.12.2011. On perusal of the order of assessment it is evident that no adverse inference was drawn by Respondent No.1 with respect to the claim of deduction under Section 10B. Thus, it can be said that Respondent No.1 had accepted the claim of the said deduction. However, the only mistake in the said order is that Respondent No.1

adopted the value of the Returned income as Rs.7,43,13,330/-. This figure must have been adopted from the ITR or ITR-V where erroneously the Total Income was stated as Rs.7,43,13,330/- without reducing the claim made by the Petitioner for deduction of the equivalent amount under Section 10B of the Act. However, Respondent No.1 in the tax computation sheet rightly computed the tax liability as per the provisions of Section 115JB resulting into a notice of demand of Rs.NIL. In the facts of the present case, when Respondent No.1 computes tax based on the provisions of Section 115JB, it obviously suggests that he had allowed deduction under Section 10B resulting in NIL tax liability under the regular provisions of the Act. Moreover, the audit objections by the Revenue Audit department (vide letter dated 20.12.2012) were raised for the sole reason that the deduction under Section 10B allowed during the regular assessment proceedings was alleged to be in excess of what was permissible under the law. Even this supports our view that in the order of assessment, deduction under Section 10B was duly allowed which was then subjected to a Revenue Audit Objection. The revenue audit objection letter dated 20.12.2012 specifically refers to the order passed under Section 143(3) dated 20.12.2011 and categorically states that on perusal of the said assessment records, it was inferred that claim under Section 10B was

allowed in excess. Thereafter, Rectification proceedings were initiated based on the recommendations of the Revenue Audit Department. Thus, we are of the view that Respondent No.1 had examined the factual/legal aspect for the allowability of the claim of deduction under Section 10B during the course of assessment proceedings and had allowed the same. Once the order under Section 143(3) is passed wherein the claim for deduction under Section 10B was allowed, the impugned intimation issued under Section 143(1) wherein the claim for deduction under Section 10B was disallowed, cannot stand on its' own. The order of assessment passed under Section 143(3) subsequent to the intimation under Section 143(1), that too after specifically examining the aspect of Section 10B, would supersede the said intimation. In short, the intimation would get merged into the order of assessment. Thus we disagree with the argument of Respondent No.1 that in the assessment proceedings no inference was drawn with respect to the aspect of the allowability of deduction under Section 10B or that the Petitioner never made any claim for a deduction under Section 10B in its return of income.

30. Thirdly, after having scrutinized the aspect of deduction under Section 10B during the regular assessment proceedings, followed

by the internal audit objections proceedings, where Respondent No.1 as well as the Principal Commissioner of Income Tax themselves reported that the claim made by the Petitioner under Section 10B was correct and not in excess, it is not open for Respondent No.1 to now state that the rectification proceedings initiated by Respondent No.1 under Section 154 were pursuant to an incorrect assumption of excess claim of deduction under Section 10B and that the Petitioner had not made any claim for deduction in the ITR. Such assertions and pleadings at this stage cannot be entertained. Respondent No.1 cannot himself invalidate any proceedings which were carried out by him earlier. Be that as it may, we have already held that the Petitioner had claimed the deduction under Section 10B in the return of income, and hence the argument of Respondent No.1 that rectification proceedings under Section 154 were initiated on an incorrect premise of the Petitioner having claimed the deduction in the ITR would have no legs to stand on.

31. Interestingly, it is also pertinent to note that Respondent No.1 in the affidavit-in-reply states that the order under Section 154 was prepared on 20.07.2015 wherein the alleged excess claim of deduction under Section 10B was disallowed. However, as noted earlier, the said order was not communicated to the Petitioner until 28.01.2022. Three

days immediately thereafter i.e. on 23.07.2015 Respondent No.1 changes his view and prepares a report where he negated the audit objection raised. Moreover, in the said report he has nowhere mentioned about the alleged rectification order passed under Section 154 on 20.07.2015. We fail to understand as to how this impugned order dated 20.07.2015 never came on record earlier and was served to the Petitioner directly on 28.01.2022. When Respondent No.1 had already changed his view in favour of the Petitioner, then before serving of the impugned order dated 20.07.2015, Respondent No.1 should have issued a corrigendum or passed a separate rectification order withdrawing the disallowance made in the impugned order of rectification dated 20.07.2015. There appears some anomaly with respect to the so called rectification order dated 20.07.2015 which was served on 28.01.2022.

32. From the documents produced before us, it is evident that Petitioner had claimed the deduction under Section 10B in the ITR. However, for the reasons beyond the control of the Petitioner the total income was reflected as Rs.7,43,13,330/- in the ITR-V. Based on this, the return of income was processed and intimation under Section 143(1) was issued wherein the claim for deduction under Section 10B was not

allowed. The Petitioner immediately filed a rectification application against the said intimation which is admittedly not yet disposed by Respondent No.1. In any event, after the above intimation, regular assessment proceedings were carried out, wherein also the deduction under Section 10B was examined and no adverse inference was drawn. Further, admittedly, even Respondent No.1 as well as the jurisdictional Principal Commissioner of Income tax themselves negated the specific audit objection (with respect to alleged excess claim of deduction under Section 10B) raised by the Revenue's Audit Department and categorically reported that the Petitioner had not made any excess claim of deduction under Section 10B. Respondent No.1 has stated in paragraph 3.8 of the affidavit-in-reply that even though it had initiated rectification proceedings under Section 154 for alleged excess claim of deduction under Section 10B but had later changed his view on this aspect in favor of the Petitioner. Considering the above subsequent developments in favor of the Petitioner after the issuance of intimation under Section 143(1), the impugned disallowance made in the said intimation cannot stand on its own. Respondent No.1 stated that the claim for deduction under Section 10B should not be allowed to the Petitioner as the same is not challenged in the Writ Petition. However, the Petitioner in Ground 'I' of the Writ Petition has *inter alia* challenged

the intimation under Section 143(1) for disallowing the claim of deduction under Section 10B. Firstly, after a deep examination by Respondent No.1 with respect to allowability and correctness of deduction under Section 10B, it cannot now be contended that the *prima facie* adjustment made in the intimation under Section 143(1) disallowing the deduction under Section 10B was valid. The said impugned intimation issued under Section 143(1) would get merged into the order of assessment where no negative inference was made in respect of the allowability of the deduction under Section 10B. Secondly, it is settled law that only *prima facie* adjustments are permitted within the ambit of Section 143(1). Any aspect which requires deeper examination of records or any matter which is debatable in nature cannot be subjected to a *prima facie* adjustment under Section 143(1). In the present case, the issue of allowability of deduction under Section 10B involved factual as well as legal aspects. Such an issue cannot be subjected to *prima facie* adjustment. Such aspects must be addressed only after a deeper scrutiny. Like in the present case itself, the allowability and correctness of the deduction under Section 10B was ascertained by Respondent No.1 after deeper examination in the assessment proceedings as well as while dealing with the internal Audit Objection raised by the Revenue's Audit Department. In fact, the issue

involved a debatable aspect where the Revenue's Audit Department was of the view that Petitioner had claimed excess deduction, whereas Respondent No.1 after examining the records came to conclusion that the deduction as computed by the Petitioner was correct. Mr.Jain has brought to our notice a decision of this Court in the case of ***Bajaj Auto Finance Ltd. Vs. CIT [(2018) 404 ITR 564 (Bom HC)]*** wherein it is held that debatable issues cannot be subjected to *prima facie* adjustments under Section 143(1). We are in agreement with Mr.Jain that *prima facie* adjustments under Section 143(1) would not cover within its ambit unbridled powers to make adverse adjustments in respect of the aspects which are debatable or which require examination of factual/legal records, like in the present case.

33. We are further of the view that at this stage there is no point in directing Respondent No.1 to dispose of the Rectification Application filed by the Petitioner on 06.04.2010 and 06.05.2010 because what has been prayed by the Petitioner in the said Rectification Application has been in substance been accepted by Respondent No.1 in the regular assessment proceedings as well as in the internal Revenue Audit Objection proceedings as described earlier. Further, it is also admitted in paragraph 3.8 of the affidavit-in-reply.

34. We accordingly dispose of the Writ Petition by quashing the impugned adjustment (with respect to disallowance of deduction under Section 10B of the IT Act) made in the intimation dated 11.12.2009 issued under Section 143(1). Since the order dated 20.07.2015 [which was communicated on 28.01.2022] is itself stated to be redundant by Respondent No.1 in light of the subsequent change of view of Respondent No.1, the same is infructuous. Even otherwise the said order is barred by limitation in pursuance of the provisions of Section 154(7) as well as Section 154(6). The said order is therefore null and void. We, accordingly, direct that the Petitioner be refunded the amounts as adjusted against the outstanding demand for A.Y.2008-09 with applicable interest in a time bound manner within a period of 8 weeks from the date on which this order is uploaded on the High Court website.

35. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

36. Though we have disposed of the Writ Petition, to ensure that the directions given to the Respondents are strictly followed, we place the above Writ Petition on board for reporting compliance on 2nd February 2026.

37. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]