



GUJ HC: Can You Switch Depreciation Method In A Revised Return?

Facts of the Case

The assessee, a power generation company, filed its original return for Assessment Year 2002-03 ('AY') on 31st October, 2002, claiming depreciation under the SLM method. Subsequently, on 31st March, 2003, it filed a revised return u/s 139(5) of the Income-tax Act, 1961 ('the Act') based on three discoveries:

- (i) unconfirmed sale of power of Rs. 2.85 crores as the GEB had not confirmed the sale,
- (ii) unclaimed expenditure of Rs. 14 lakhs on power consumed, and
- (iii) a change in depreciation method from SLM to WDV method.

The Assessing Officer rejected the revised return, arguing that there was no omission or wrong statement in the original return and that the option for depreciation method once exercised under Rule 5(1A) of the Income-tax Rules, 1962 ('the Rules') is final. The CIT (Appeals) and the Income Tax Appellate Tribunal, however, ruled in favor of the assessee, validating the revised return and permitting the change in depreciation method. Aggrieved, the Revenue appealed to the Gujarat High Court.

Assessee's contentions

The assessee argued that the revised return was *bona fide*, filed due to genuine omissions discovered after filing the original return. It further contended that once a revised return is held valid, it replaces the original return for all purposes, and therefore, the choice of depreciation method could also be revised. Additionally, the assessee submitted that Rule 5(1A) of the Rules is a machinery provision intended to be beneficial to the taxpayer and should be interpreted liberally.

Revenue's contentions

The Revenue argued that the revised return was invalid as there was no genuine omission regarding the depreciation method. It contended that Rule 5(1A) of the Rules is mandatory, requiring the option for depreciation method to be exercised before the due date of the original return u/s 139(1) of the Act, and that such option once exercised is final. The Revenue heavily relied on the Supreme Court decision in *PCIT vs. Wipro Ltd. [2022] 140 taxmann.com 223 (SC)*, submitting that a revised return cannot be used to take a contrary stand or claim a new benefit not claimed in the original return.

Ruling of the Court

The Gujarat High Court dismissed the Revenue's appeals and ruled in favor of the assessee. The Court held that the revised return was valid u/s 139(5) of the Act as the assessee had discovered genuine omissions (unconfirmed sales and unclaimed expenses). Once a revised return is accepted, it supplants the original return for all purposes, and the Act does not permit the existence of two separate returns. Regarding the change in depreciation method, the Court held that an assessee who has validly exercised the option to claim depreciation by the due date u/s 139(1) of the Act can change the method of computation (from SLM to WDV) in a valid revised return. The Court clarified that the due date condition in Rule 5(1A) of the Rules is directory, not mandatory, to the extent it prevents a change via a revised return. Further, the Court distinguished the *Wipro Ltd.* judgment, noting that in that case, no declaration u/s 10B(8) of the Act was filed at all, whereas in the present case, depreciation was claimed in the original return itself. The Court observed that depreciation u/s 32 is a deduction provision, not an exemption provision, and must be interpreted liberally in favor of the assessee.



Citation

Gujarat State Energy Generation Ltd [TS-503-HC-2026(GUJ)]

Our Comments

This ruling establishes that a valid revised return u/s 139(5) of the Act substitutes the original return entirely. Once a valid revised return is filed, other claims, which are not prohibited by law, can validly be made, subject to statutory compliances, if any, associated with those claims.