Herbalife International India Pvt. Ltd. v. Commissioner of Income-tax-I, Bengaluru & Principal Commissioner of Income-tax, Bengaluru

ITA No. 433 of 2018

ITA No. 433 of 2018 (Karnataka High Court, decided 20 May 2025) | 2025-05-20

Section 263 revision upheld for absence of inquiry into 100% depreciation on leasehold improvements.

Income-tax Act,1961: sections 143(3), 144C, 154, 260A, 263

High Court of Karnataka | 2-judge bench (Division Bench) | Justice V. Kameswar Rao | Justice S. Rachaiah

Assessment years: 2008-09

01 FACTS OF THE CASE

Herbalife challenged the Tribunal's 2 February 2018 order sustaining revision under section 263 dated 17 March 2014. It had claimed 100% depreciation on Rs.2,28,51,221 of leasehold improvements at Bengaluru, Kolkata, Mumbai and Guwahati. The Commissioner directed a fresh assessment, with excess depreciation disallowed if restriction was warranted.

Source: PDF pp.2–8

02 DISCUSSION BY THE HON'BLE COURT

The assessee relied on disclosures, earlier favourable decisions and the AO's decision not to rectify under section 154. The Court relied on the recorded admission that no inquiry into the depreciation claim had occurred, and on the absence of corroborative inquiry material. The general fixed-asset information supplied did not establish examination of the rate.

Source: PDF pp.8–19, 21–26

03 JUDICIAL DECISION

The Court upheld the finding that allowance without inquiry or application of mind was erroneous and prejudicial to Revenue. Earlier-year decisions did not establish the nature of the current year's expenditure.

Source: PDF pp.17–20, 24–27

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed without costs; the section 263 revision remained effective. The Court did not itself prescribe a final depreciation rate for every item.

Source: PDF p.27; p.7, para 5

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Preserve evidence of the specific inquiry: Filing accounts, an audit report and a list of asset additions was insufficient on this record. The relevant question was whether the AO actually examined entitlement to 100% depreciation. The adopted reasoning allows inquiry to be demonstrated from notices and replies even where an assessment order is silent; this result does not make silence alone conclusive in every case. (PDF pp.21–26)

Earlier years and rectification did not cure the omission: The nature of leasehold expenditure may differ each year, so earlier favourable orders did not replace examination of the current items. The asserted absence of a section 154 adjustment also failed to establish inquiry in the original assessment. A defence should connect evidence to the particular year and issue rather than rely solely on prior outcomes or the debatable nature of rectification. (PDF pp.6, 17–20, 24–26)

Revision upheld; final rate not determined: The sustained direction required a fresh assessment and contemplated restriction if justified. The Commissioner's view that 10% applied was not converted into a High Court item-by-item depreciation ruling. The source inconsistently labels the revisional Commissioner as CIT(A) and prints differing assessment and admission dates; the reproduced admission bears 13 March 2014. Those inconsistencies do not enlarge the operative decision. (PDF pp.7, 17–20, 25–27)

Source: PDF pp.21–26

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 27-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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