

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.222/Nag./2023**  
(Assessment Year : 2013-14)

Asstt. Commissioner of Income Tax  
Circle-3, Nagpur ..... Appellant

v/s

The Wardha District Central  
Co-operative Bank Ltd. Wardha  
1, Opp. Railway Station, Wardha 442 001 ..... Respondent  
PAN – AAAAT6426G

Assessee by : Ms. Alfiya Rozie  
Revenue by : Shri Kailash C. Kanojiya

Date of Hearing – 29/07/2024

Date of Order – 09/09/2024

**ORDER**

**PER V. DURGA RAO, J.M.**

The Revenue has filed the captioned appeal challenging the impugned order dated 31/05/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2013-14.

2. In its appeal, the Revenue has raised following grounds:-

*"1. On the facts and in the circumstances of the case, the learned CIT(A) erred in holding that the order u/s 154 dated 26/03/2021 is barred by the limitation and quashing the same.*

*2. On the facts and in the circumstances failed to appreciate of the case, the learned CIT(A) failed to the fact that the impugned rectification order dated*

26/03/2021 has been made against the order u/s 250 dated 29/10/2019 and not against order u/s 143(3) dated 18/02/2016.

3. On the facts and in the circumstances of the case, the learned CIT(A) failed to appreciate the fact that the order sought to be amended was order u/s 250 dated 29/10/2019 which makes the rectification order dated 26/03/2021 well within the time limit of four years stipulated u/s 154(7) of the Act.

4. The applicant craves leave to add and alter any other ground that may be taken at the time of hearing."

3. The sole ground for adjudication is, whether the order passed under section 154 of the Income Tax Act, 1961 ("*the Act*") is sustainable on the ground of limitation.

4. We deem it appropriate and convenient to reproduce below Para-7.2 to 7.7 of the impugned order passed by the learned CIT(A):-

*"7.2 I perused the form no.35, written submission, rectification order and other material available on record.*

*7.3 The appellant has raised a substantial question of law that whether the AO was correct in passing the order under section 154 after expiry of limitation period of four years.*

*7.4 Provisions of section 154) speak about rectification of mistake. Section 154(1) of the Act says that with a view to rectifying any mistake apparent from the record an income tax authority referred to in section 116 may .....*

*And the very provisions laid down in section 154(7) of the Act say as follows:-*

*"Save as otherwise provided in section-155 or in sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the end of financial year in which the order sought to be amended was passed."*

*7.5 The AO has noted that in this case assessee has filed its e-return of income declaring loss of Rs. 11,24,67,751/- on 05/10/2013. Subsequently, the case has been selected for scrutiny through CASS. The assessment was completed on 18/02/2016 by assessing loss at Rs. (10,98,97,162/-). Hon'ble CIT (A) has given the relief to the assessee. Accordingly order under section 250 was passed on 29/10/2019 by assessing loss of Rs. (10,99,09,162/-). It is on record that the rectification order under section 154 of the Act has been passed after the expiry of four years from the end of financial year in which the order sought to be amended was passed.*

7.6 Now it is a substantial question of law that the rectification order u/s 154 passed by the AO on 26/03/2021, which was getting time barred by 31/03/2020, is valid or not. This issue is no longer Res-Integra as it has been already adjudicated by various judicial authorities. In the case of Shri P.S. Jagdish vs. the DCIT, the Hon'ble ITAT, A Bench Chennai, in ITA No.1028/CHNY/2019, pronounced on 24/01/2022, quashed the rectification order passed under section 154 after the expiry of four year from the end of financial year in which the order sought to be amended was passed. In the above petition, rectification order u/s 154 of the Act was passed on 20/06/2016 against the intimation order u/s 143(1) dated 05/03/2012. The Hon'ble ITAT observed that:

"8. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the return of income filed by the assessee was processed by CPC, Bengaluru and intimation u/s. 143(1) of the Act was issued on 05.03.2012 (which is not disputed by Revenue). Admittedly, the AO passed rectification order on 20.06.2016. The claim of the assessee is that the rectification period i.e., limitation period expired on 31.03.2016 as per the provisions of Section 154(7) of the Act. We are of the view that when an order is rectified by an order of rectification u/s.154 of the Act, the time limit is to be reckoned as per the provisions of Section 154(7) of the Act. The provisions of section 154(7) of the Act makes it clear that except orders u/s.155 or 186(4) of the Act, no rectification order can be passed after the expiry of 4 years from the date of order sought to be rectified. Thus, the date of original order is the commencing point of limitation even if that order is in between these 4 years being subjected to a rectification on a later date, the commencing point of limitation remains the same date of the original order and not the later date of its subsequent rectification or subsequent application This view is supported by the Hon'ble Jurisdictional High Court in the case of Kothari (Madras) Ltd., vs. AG(ITO), (1989) 177 ITR 538 Mad. In the present case before us there is no controversy about first order or second order but order under rectification is only the order passed by CPC, Bengaluru u/s.143(1) i.e., intimation or processing of return of income vide letter dated 05.03.2012 The rectification order by the AO u/s.154 of the Act was passed only on 20.06.2016. It means, that the rectification order u/s.154 of the Act in the present case can be passed upto 31.03.2016 and not beyond that. In the given facts and circumstances and above legal position discussed, we are of the view that the rectification order passed u/s 154 of the Act is clearly barred by limitation and hence, on this sole ground, the order is quashed.

7.7 Under the facts and circumstances of & as per the very provision of section 154(7) of the Act and the ratios laid down in above judicial decision, I am of the opinion that the rectification order, dated 26/03/2021 of the Act, passed under section 154 is clearly barred by limitation since the rectification order under section 154 was passed after the limitation period stipulated in section 154(7) of the Act and hence, on this sole ground, the said rectification order is quashed."

5. The assessment order was passed on 18/02/2016, the last date of passing order under section 154 of the Act was 31/03/2020. Hence, the order

passed on 26/03/2021, is beyond limitation and cannot be sustained. On 29/10/2019, the order giving effect to section 250 of the Act was passed and that particular order was never sought to be rectified in contradistinction to the submissions made by the learned D.R. Hence, the issue raised by the Revenue in Grounds no.1, 2 and 3, has no merit and it is accordingly dismissed.

6. No separate adjudication is required for ground no.4.

7. In the result, Revenue's appeal is dismissed.

Order pronounced in the open Court on 09/09/2024

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**NAGPUR, DATED: 09/09/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur