

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.787/Chny/2025  
Assessment Years: 2017-18

Sadish Paul,  
No.19, First Cross, Priyadarshini Nagar,  
Gorimedu,  
Pondicherry-605006  
[PAN: AWXPP6586H)

Deputy Commissioner of Income  
Tax,  
Circle-1,  
Pondicherry.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by  
प्रत्यर्थी की ओर से /Revenue by

: Shri N.V.Krishnan, Advocate  
: Ms.Anitha, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 03.06.2025

घोषणा की तारीख /Date of Pronouncement

: 11 .06.2025

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2023-24 / 1053693294(1) dated 13.06.2023 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Centre(NFAC), Delhi for the assessment year 2017-18. . The reference to the word "Act" in this order hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 It has been noted that there is a delay of 673 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has

pleaded that the assessee had not received any physical copy of the order and that he was totally unaware that his appeal was dismissed by the Ld.CIT(A). The appellant was also alluded towards his serious illness and accompanying bedrest from August-2024 to November-2024. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 The only issue contested in the present appeal is the action of Ld.CIT(A) in confirming the addition of Rs. 12 lakhs made by the Ld.AO. At this stage we deem it necessary to narrate brief factual matrix of the case. The assessee is partner in a firm and had declared income of Rs.8,55,810/-. The order u/s 143(1) was passed making an adjustment of Rs.12 lakhs under the head Salary. It is the case of the assessee that the impugned amount was actually remuneration from a firm ABC Laser Technology which was erroneously shown as salary. The assessee moved a petition u/s 154 dated 16.05.2020. The Ld. AO passed order dated 04.06.2020 rejecting assessee's rectification application. The

assessee filed appeal before the Ld.CIT(A) contesting the impugned decision taken by the Ld. AO passed order dated 04.06.2020 rejecting assessee's rectification application. The Ld. CIT(A) held that the addition u/s 143(1) has been made on the basis of information available in 26AS statement. The Ld.CIT(A) also held that within the meanings of section 143(1)(vi) of the Act the Ld.AO was well within his rights to make the impugned addition of Rs.12 lakhs. He also concluded that there was no mistake in the order u/s 154 dated 04.06.2020.

4.0 The Ld.Counsel for the assessee argued against the decision of the Ld.CIT(A) and submitted that the same amounts to double taxation. The Ld.AR contested the decision of Ld.CIT(A) in holding that there was no mistake in the order u/s 154 dated 04.06.2020.

5.0 Per Contra, the Ld.DR relied upon the order of lower authorities.

6.0 We have heard rival submissions in the light of material available on records. We have noted from Column-2a r.w. Column-2b of Form-35 filed before the Ld.CIT(A) that the assessee had appealed against order u/s 154 dated 04.06.2020. Again before us also in Form-36 the appellant has through Column-6 indicated that the impugned order has been passed u/s 154. We have also noted that no disturbances have been made to the assessee's income by way of order u/s 154 and that the position of order u/s 143(1) has merely been retained. We have noted that in ITA No.583/Chny/2024 for Assessment Year: 2013-14 and

ITA No.584/Chny/2024 for Assessment Year: 2020-21 in the case of Kumbakonam central cooperative Bank vide order dated 21.02.2025a Coordinate Bench of this tribunal had an occasion to examine in identical matter. Thus, it was observed that

*“... Accordingly, we have noted that there is no case made out in favour of the appellant assessee to disturb the order of Ld. First Appellate Authority. The assessee had assailed the Ld.AO’s action u/s 154. The Ld. CIT(A) has rightly observed that when there is no addition made in the assessment order there cannot be any scope for any amendment therein. It is settled principle of law that section 154 of the act only provides for attendance to any arithmetical or typographical errors. In the present case since there was no such error, the Ld. First Appellate Authority cannot be faulted for rejecting assessee’s appeal u/s 154. Consequently, we hold that there is no case for any interference to the order of the Ld. CIT(A) and the same is therefore sustained. **All the grounds appeal raised by the assessee, through original memo, are therefore dismissed.....”***

Accordingly, the argument of the Ld.CIT(A) in rejecting the appeal of the assessee on the premise that since there was no mistake in the order u/s 154 the Ld.AO’s action is found to be correct.

7.0 We have further noted that the addition was made by the Ld.AO u/s 143(1) and therefore the assessee, if at all, ought to have contested the said order. This hypothesis is taken because the doctrine of merger is not applicable and both order u/s 143(1) and u/s 154 operate on independent plains and are separately appealable. In this regard we have noted in ITA Nos.1104/Chny/2024 for AY Assessment Years: 2018-19 dated 12.07.2024 in the case of Termoplast Pollypacks Italy India Pvt Ltd a Coordinate Bench of this tribunal has held as under:-

“....The Ld.Sr.DR argued that the assessee appeal is non-maintenable in as much as no injury has been caused to the assessee qua order u/s 143(3) dated 09.02.2021 in which no addition has been made. It was informed that the assessee has itself committed mistake having furnished wrong facts in its return. It was further argued that within the meaning of section 246(1)(a) of the Act order u/s 143(1) is an appealable order and hence the assessee ought to have contested the same which is primarily responsible for generation of the impugned demand.

5.0 We have heard rival submissions in the light of facts of the case and material brought on records. It is an undisputed fact of the case that the assessee itself had committed the mistake of showing the amount of Rs.2,77,64,495/- being dividend income from foreign company, under schedule-EI of the return as exempted income. It is also an undisputed fact of the case that the impugned interference to the assessee's returned income and the corresponding generation of demand of Rs.2,23,98,723/- has arisen from u/s 143(1) dated 09.11.2020. Section 246 of the income tax act provides that an assessee aggrieved by orders passed by Income Tax Authorities under various sections are entitled to file appeal before the Ld.CIT(A). Section 143(1) is one such section included in section 246(1)(a) and reads as under..

**246. Appealable orders.**—(1) Subject to the provisions of sub-section (2), any assessee aggrieved by any of the following orders of an Assessing Officer (other than the Deputy Commissioner) may appeal to the Deputy Commissioner (Appeals) 3[before the 1st day of June, 2000] against such order—

(a) an order against the assessee, where the assessee denies his liability to be assessed under this Act 4[or **an intimation under sub-section (1) or sub-section (1B) of section 143**, where the assessee objects to the making of adjustments,] or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed.

6.0 Facts of the case discussed above indicates that the assessee was aggrieved by the order u/s 143(1) and hence was eligible to file an appeal against the same before the first appellate authority. The action of the CPC in alleged double taxation and incorrect application of tax rates etc. squarely constituted an event to cause grievance to the assessee. In view of the clear statutory position of section 246(1)(a) above, the hypothesis of doctrine of merger do not arise in this case. We find that the first appellate authority has rightly dismissed the assessee's appeal as it was not aggrieved by any action of the AO qua order u/s 143(3). The assessee in the right scheme of things should have contested the order u/s 143(1) passed by the CPC on 29.03.2019. We also hold the view that the Tribunal comes to rescue of an assessee only when there is an error in the order of the first appellate authority. The Ld.CIT(A) has rightly concluded that there is no error in the order of the AO and that the grounds of appeal raised before him are not emanating order u/s 143(3). In the instant case no such facts are available on records. Accordingly, all the grounds of appeal raised by the assessee are dismissed...”

8.0 Accordingly, we are of the considered view that as there was no addition or any change qua returned / assessed income of the assessee

in the order u/s 154, the Ld.CIT(A) was well within its rights in rejecting the appeal of the assessee. The order of the Ld.CIT(A) as thus found to be based upon correct understanding of the contemporary statute and befitting order not requiring any intervention at this stage. The same is therefore upheld. Accordingly, all the grounds of appeal raised by the assessee are dismissed.

9.0 In the result, the appeal of the assessee is dismissed.

Order pronounced on 11<sup>th</sup>, June-2025 at Chennai.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS VISWANETHRA RAVI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 11<sup>th</sup>, June-2025.  
KB/-

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF