

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA No.751/Ind/2024 (AY: 2011-12)**

Dhruv Narayan Singh, E-2/192 Arera Colony, Bhopal <b>(PAN: APRPS4102H)</b>	<b>बनाम/</b> <b>Vs.</b>	Income Tax Officer 2(3), Bhopal
(Appellant)		(Revenue)
Assessee by	Ms. Shreya Jain, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.07.2025	
Date of Pronouncement	28.07.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M:**

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the “**Act**” for sake of **breivity**) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1068530366(1) dated **10.09.2024** passed by the Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the “**Impugned order**”. The relevant Assessment Year is 2011-12 and the corresponding previous year period is from 01.04.2010 to 31.03.2011.

2.

**FACTUAL MATRIX**

2.1 That as and by way of an assessment order made u/s **153C r.w.s. 143(3) of the Act**, the total income of the assessee exigible to tax was computed and assessed at **Rs.57,52,730/-**. The total income as per Return of Income was at **Rs.10,69,490/-**. Additions of **Rs.42,84,387/-** was made on account of undisclosed **Long Term Capital Gain** and **Rs. 3,98,856/-** on account of undisclosed **Short Term Capital Gain**. That the aforesaid order is dated 30.03.2016 and the same is hereinafter referred to as "**impugned assessment order**".

2.2 That by an order u/s **154 of the Act** dated **30.05.2018** the tax payable on rectification was payable at **Rs.18,17,460/-**. **No change** was made on total income as assessed and computed at Rs.57,52,730/-. Since there was an error while making **computation of tax and interest a demand notice** was issued at **Rs.9,03,670/-** and hence there was a need to recompute tax interest u/s 234A & 234B. The aforesaid is hereinafter referred to as "**impugned rectification order**".

2.3 That the assessee being aggrieved by the aforesaid "**impugned rectification order**" prefers first appeal u/s 246A of

the Act before Ld. CIT(A) who by the “**impugned order**” has dismissed the appeal of the assessee on the grounds and reasons specified therein. The core ground and reason is stated as below:-

*“5. DECISION: I have very carefully considered the facts of the case, assessment order of the AO, the grounds of appeal and the submissions of the assessee.*

*6. Briefly stated the facts of the case as culled out from the records are that the assessee had filed return of income for the A.Y.2011-12 on 30.12.2011 declaring a total income at Rs. 10,69,490/-. The case was reopened U/s 153C of the act. Hence, notice u/s 153C was issued on 26.09.14. Order U/s 153C was passed on 30.03.16 and income was assessed at Rs 57,52,730/-. While making computation of tax and interest demand notice was issued by the AO at Rs.9,03,670/- in which tax, interest U/s 234A and 234B were calculated at Rs.6,83,006/-, Rs.31,640/- and Rs.3,68,081/-respectively. Whereas actual tax, interest U/s 234A and interest U/s.234B had to be determined at Rs. 11,85,921/-, Rs.1,87,549/- and Rs.6,21,054/- respectively. A letter to the assessee was sent by the AO on 31.03.2018 for giving opportunity of being heard for rectifying the mistake which was apparent from the record and date of hearing was fixed on 12.04.2018. The assessee has not submitted any reply till date. Accordingly, the assessment order U/s 153C/143(3) dated 30.03.18 for AY 2011-12 was rectified U/s 154 of the Act and tax payable was determined at Rs. 18,17,460/-.*

*7. Having considered the factual matrix of the case, I find that the assessee has failed to establish as to how there was a mistake and how it was apparent form record which could be rectified u/s 154 of the Act. The AO has passed a speaking order calculating the tax and Interest as per law. Thus, the only conclusion which can be drawn is that there was no mistake apparent from assessment records which could be rectified u/s 154 of the Act.*

*Hence, the grounds of appeal are dismissed.*

*8. In the result, the appeal of the assessee is Dismissed”.*

**2.3** That the assessee being aggrieved by the **“impugned order”** has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal in Form No.36 against the **“impugned order”** which are as under:-

*“1. The order passed by the Ld. National Faceless Appeal Centre is bad in law, illegal and without jurisdiction. Since the order is passed without providing proper opportunity being heard to the assessee.*

*2) That on the facts and in the circumstances of the case, the Ld. National Faceless Appeal Centre erred in disposing appeal filed against order u/s 154 without deciding first appeal filed against the order u/s 153C r.w.s. 143(3).*

*The appellant craves leave to add, to alter or amend the aforesaid grounds of appeal as and when necessary.”*

### **3. Record of Hearing**

**3.1** The hearing in the matter took place before this Tribunal on 24.07.2025 when the Ld. AR for and on behalf of the assessee contended that the main issue of quantum assessment is pending hearing and final disposal before Ld. CIT(A) against the **“impugned assessment order”**. Pending appeal as aforesaid the **“impugned rectification order”** was passed wherein a prejudicial order came to be **passed on amount of tax to be paid** which has resulted in to **the enhancement of tax liability of the assessee**. It was also sought to be contended that the **“impugned assessment order”** has been passed under

misconception u/s 153C r.w.s. 143(3) of the Act. It was prayed that under these peculiar facts and circumstances of the case in hand it would be just fair and convenient that the **“impugned order”** be set aside and the matter be referred back to the Ld. CIT(A). Per contra Ld. DR appearing for revenue has stated that while it is true that the main quantum 1<sup>st</sup> appeal is pending and real tax liability due and payable would then be known finally from the point of view of **tax leviable** and therefore it was contended that this Tribunal may take decision as it deems fit.

**4. Observations, findings & conclusions.**

**4.1** We now have to decide the legality, validity and the propriety of the **“Impugned Order”** basis records of the case and rival contentions canvassed before us.

**4.2** We have carefully perused the records of the case.

**4.3** We **basis** records of the case and so also after hearing and upon examining the contentions are of the considered opinion that main quantum appeal against the **“impugned assessment order”** is pending before Ld. CIT(A) for final hearing and disposal **basis which computation of tax would be done.** Therefore the **“impugned order”** which was on the **“impugned rectification**

**order”** should be set aside and accordingly set aside as and by way of remand to Ld. CIT(A) who shall dispose off **first the main quantum 1<sup>st</sup> appeal of the assessee** against the **“impugned assessment order”** and shall then proceed to decide the first appeal against the instant **“rectification order” dated 30.05.2018.**

5.

Order

**5.1** In view of the aforesaid **“impugned order”** is set aside as and by way of remand to Ld. CIT(A).

**5.2** In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 28.07.2025.

Sd/-

Sd/-

**(B.M. BIYANI)**  
**ACCOUNTANT MEMBER**

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 28/07/2025

Dev/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore