

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1300 to 1303 & 1304/Chny/2025
निर्धारणवर्ष/Assessment Years: 2008-09 to 2011-12 & 2013-14

Seetharaman Bakthavatsalam, No.27, 6 th Cross, Jailaniya Street, Subramaniapuram, Trichy-620 020.	v.	The ACIT, Circle-3(1), Trichy.
[PAN: AFSPB 3673 H]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.R. Venkatesh, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Karthik Dasari, JCIT
सुनवाईकीतारीख/Date of Hearing	:	15.10.2025
घोषणाकीतारीख /Date of Pronouncement	:	28.10.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), (hereinafter referred to as 'Ld.CIT(A)'), Chennai-18, dated 13.03.2025 for the Assessment Year (hereinafter referred to as 'AY') 2008-09 to 2011-12 & 2013-14.

2. The sole and common grievance in all the appeals are against the Ld. CIT(A)'s action of upholding the AO's order rejecting the assessee's application u/s 154 of the Act seeking rectification of the mistakes in the



:: 2 ::

order passed by the AO giving effect to the directions issued by the Ld. CIT(A)-1, Trichy, vide his order bearing Nos.254, 255, 256, 257, 258/16-17, 34 & 35/18-19/CIT(A)-1/TRY dated 29.11.2018 for AYs 2008-09 to 2011-12 & 2013-14. In order to understand the issue, it would be relevant to first set out the facts in proper perspective.

3. The assessee is engaged in the business of money lending under the name & style of M/s Thayagam Finance. A survey u/s 133A of the Act was conducted at the assessee's premises on 30-04-2014 wherein several notebooks, records etc. were impounded. Subsequently, the case of assessee was reopened for AYs 2008-09 to 2014-15. In the course of assessment proceedings, the assessee had furnished re-constructed accounts on the basis of the seized notebooks and had accordingly furnished revised computation(s) of income in which additional income was offered and simultaneously expenses / bad debts were also claimed and the assessee had inter alia sought benefit of telescoping of initial capital & additional income so offered against the unexplained investments unearthed in course of survey. The AO had rejected the submissions of the assessee and completed the assessment(s) u/s 143(3) r.w. 147 of the Act for the impugned AYs 2008-09 to 2011-12 & 2013-14 after making several additions/disallowances. Aggrieved by the order(s) of the AO, the assessee carried the matter in appeal before the Ld. CIT(A)-1, Trichy who vide his common appellate order dated 29-11-2018



:: 3 ::

in Appeal Nos.254, 255, 256, 257, 258/16-17, 34 & 35/18-19/CIT(A)-1/TRY gave the following relief(s) and issued the following directions to the AO for re-compute the assessable income of the assessee.

34. Conclusion:

"On the basis of facts and case laws given, and detailed pleas made in the grounds of appeal, and after careful consideration of materials found and impounded following appears to be the case that

- a) *With reference to income from business, assessee was entitled to both bad debts and other expenses, as the income tax is tax on income.*
- b) *Income under the head PGBP has to be computed as per books of account regularly maintained.*
- c) *Entries made in note books, fulfill the tests of regularity and contemporaneous recording and are to be considered books of account for the purpose of money lending and hence*
- d) *Income has to be computed as per these diaries, and such diary entries have been entered in-the tally accounting format and are already available before the AO.*
- e) *That assessee will be allowed benefit of bad debts arising and also telescoping of initial capital and incomes earned. Only where investments for year exceed the total of initial Capital & Incomes earned till that year, can that be taxed as unexplained investment, and this has to be done year to year.*
- f) *that contention of assessee that his real income is only Rs.1.67 Crore while he has filed return of income for Rs.2.06 Crore is rejected what he has admitted is his income and tax shall be levied at gross income of Rs.2.06 Crores.*
- g) *That final income will be computed year to year taking into account (e) above*
- h) *That AO should immediately assess the commission incomes in hands of recipients or inform the appropriate AO, such that such income is assessed in the hands of alleged recipient.*
- i) *That AO should make Balance Sheet / Profit & Loss Account as on date of giving appeal effect so as to have a figure of total outstanding and loans given (as on 31.03.14), as any confusion on this account will leave the door open for controversial claims as to bad debts later on and such benefit should not be left open ended.*
- j) *That penalty for non-maintenance of accounts u/s 271A may be levied for money lending part of business."*

35. *In result, the appeal of assessee is PARTLY ALLOWED, with income to be computed as per the revised returned incomes filed by the assessee, after*



:: 4 ::

benefit of telescoping of initial Capital & Income to cover the investments made from year to year and keeping in mind the direction (a) to (j) above.

4. It is seen that, the Ld. CIT(A) had inter alia directed that, (a) the total income be computed as per the revised return of income prepared by the assessee on the basis of re-constructed accounts as per the seized diaries, which was also furnished before the AO, (b) allow deduction of bad debts and other expenses as reflected in this re-constructed accounts, (c) allow the benefit of telescoping of initial capital and additional income so earned and offered across the years and make addition(s) only where the total investment works out to a figure higher than the initial capital & additional income offered to tax in earlier year(s) and the relevant year and (d) the AO was required to draw up the revised Balance Sheet and Profit & Loss Account as on the date of appeal giving effect and compute the total figure of outstanding loans (investments) as on 31-03-2014 so as to ensure that no excess bad debts is later on claimed by the assessee. It was brought to our notice that the Revenue had preferred appeal against the order of the Ld. CIT(A) in ITA Nos.379, 380, 381, 382 & 383/Chny/2019 before this Tribunal, which was however later on dismissed as withdrawn by order dated 22-10-2019 on the ground of low tax-effect. Hence, the order passed by the Ld. CIT(A) and his directions given therein, is noted to have attained finality.



:: 5 ::

5. Pursuant to the above directions, the AO is noted to have passed order(s) giving effect to the Ld. CIT(A)'s direction(s) and for illustration, the order giving effect for AY 2008-09 dated 21.01.2019 is reproduced hereunder:-

Giving effect to the Order of Commissioner of Income Tax (Appeals)-1, Trichy cited above, the Order passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 dated 30/12/2016 for AY 2008-09 is revised as under:

Gross total income assessed as per Order u/s 143(3) r.w.s. 147 dated 30/12/2016	: Rs.1,14,58,560/-
Less: Relief given by CIT(A)-1, Trichy [Undisclosed interest income Rs. 56,97,800/-minus Rs.52,59,770/-]	: Rs. 4,38,080/-

Gross Total Income	: Rs. 1,10,20,480/-

6. It is seen that the above order is non-speaking and does not spell out compliance with the directions issued by the Ld. CIT(A) in his appellate order (supra). There is no mention of adoption of re-constructed accounts, allowance of bad debts & other expenses, telescoping etc. According to the appellant therefore, the above order did not give the complete effect to Ld. CIT(A)'s order and that the AO had failed to comply with the specific direction(s) of the Ld. CIT(A) viz., (a) allowance of expenses incurred in money lending business and as reflected in the re-drawn revised accounts as per seized notebooks, (b) allowance of bad debts as per the revised claim, (c) benefit of telescoping initial capital and business income against unexplained investments and (d) consideration of the revised computation of income and taxes paid thereon. The assessee is therefore noted to have filed a rectification application u/s 154



:: 6 ::

of the Act dated 20-02-2019 & 25-02-2019 seeking rectification of this apparent mistake and omission on AO's part to correctly give effect to the Ld. CIT(A)'s order and directions, which was rejected by the AO. The AO however rejected this rectification application(s) by order dated 21-06-2019.

7. On appeal by the assessee before the Ld. CIT(A), it is observed that the Ld. CIT(A) dismissed the appeal by holding that the AO's action with regard to implementation of the directions of Ld. CIT(A) did not constitute mistake apparent from record as it required detailed investigation of facts and interpretation of law. The relevant findings of the Ld. CIT(A) for AY 2008-09 is noted to be as follows:-

"6.5. Section 154 of the income-tax Act, 1961 permits rectification of any mistake apparent from the record. A mistake is considered apparent when it is obvious, patent, and self-evident, without requiring detailed investigation or interpretation of facts or law. Issues involving debatable points or requiring examination of evidence do not fall within the scope of section 154.

6.6. The appellant claimed deduction of Rs.21,62,989/- towards expenditure incurred in money lending business. The appellate order had directed that the appellant is entitled to all expenses and bad debts. The AO in the rectification order states that all the expenditure relating to earning of income as claimed in return of income has been allowed in OGE. The appellant is now contending that the expenditure of Rs.21,62,989/- related to earning of interest as per revised computation of Income has not been allowed. This claim is at variance with the expenditure allowed by AO as per the appellate order. This claim of the appellant requires factual examination of impounded records and reconstructed books of accounts and detailed analysis, which falls outside the scope of Section 154.



:: 7 ::

6.7. The CIT(A) had directed that bad debts arising from money lending business be allowed in computing the income of the appellant. The AO in his order u/s 154 states that the bad debts as claimed in the return has been allowed in OGE. The appellant is claiming that 20% of the debts is to be allowed as bad debts per the directions of appellate order. The appellant contends that the AO has failed to allow the deduction of bad debts in accordance with the directions of the CIT(A). The AO mentions in the 154 order that the bad debts claimed in the return were allowed. The claim of appellant to allow higher proportion of bad debts requires detailed examination. The verification of this aspect involves factual examination of the appellant's books of account/impounded documents etc to determine the actual write-off of bad debts as per law, which cannot be subject matter of rectification under Section 154. Therefore, the AO's action in rejecting the rectification was justified.

6.8. The CIT(A) allowed the telescoping of initial capital and business income against unexplained investments. However, the AO contended that there were no such investments made during the relevant assessment year to allow telescoping. The appellant's claim regarding the telescoping of investment of Rs.52,00,000/-requires detailed examination and enquiries which are not possible in rectification application u/s 154.

6.9. The appellant also claimed that the income declaring additional business income and the tax paid thereon. This again requires examination of facts and verification of revised accounts to determine the correct computation of income, which is beyond the scope of Section 154.

.....

6.12. In view of the above discussion, I find that the appellant's contentions regarding allowance of expenditure, bad debts, telescoping of capital, and revised computation of income involve complex factual and legal issue requiring detailed examination of evidence, which falls beyond the scope of rectification under section 154. The appellant has not made out a case that the grounds raised are mistakes apparent from record. Hence, the AO has rightly rejected the rectification application, and there is no apparent mistake in the OGE, Hence the grounds 1 to 6 dismissed."

8. Being aggrieved by the order of Ld. CIT(A), the assessee is now in appeal before us.



:: 8 ::

9. We have heard both the parties and perused the material placed before us. Having regard to the above stated facts, it is seen that, the direction(s) given by the Ld. CIT(A) in his appellate order was express and clear from sub-para (a), (b), (c), (d), (e), (f), (g), (h), (i) & (j) of Para No.34 (infra). Bare reading of the order giving effect to the above appellate order in AY 2008-09 shows that, the AO started the computation of assessable income from the point of last income assessed by him and only deleted the undisclosed interest income of Rs.4,38,080/-. There is no mention of allowance of bad debts and other expenses, as claimed by the assessee in his reconstructed / revised accounts. It is seen that, the AO has also not set out the reconstructed / revised income from the business of money lending which was drawn up by the assessee on the basis of seized notebooks [*which was also furnished in course of assessment*]. We observe that, the AO has also not mentioned the benefit of telescoping, if any, allowed in the respective year(s) nor has assigned any reasons in relation thereto. In our opinion, when any directions has been issued by an appellate authority, which has attained finality, the AO has to mandatorily give effect to the order of the appellate authority by the decision of which, the issue has been finally settled. The refusal or failure to comply the order of the appellate authority [Ld. CIT(A), in this case] by the lower authority [AO, in this case] amounts to gross disobedience of the binding directions of a superior Appellate Authority,



:: 9 ::

which undermines the judicial discipline and shakes the foundation of Rule of Law and creates chaos in the administration of justice and hence, needs to be deprecated. First of all, it has to be borne in mind that the genesis of the problem lies in the AO not giving complete effect to the order passed by the Ld.CIT(A), Trichy, dated 29.11.2018; and thereafter, when the assessee is obviously aggrieved, files rectification petition (when there is no other effective alternative procedure) then it doesn't lie in the month of the AO to take refuge under the technical/narrow specious plea that u/s.154 of the Act, the remedy can't be granted. Such a plea of the AO/Ld.CIT(A) is inequitable and is hit by estoppel. Having not done his duty of giving complete effect to order of Ld CIT(A), the AO can't be seen to take the aid of narrow technical plea, to avoid his duties, which the Ld.CIT(A) ought not to have encouraged and such impugned action needs to be set-right ab-initio. As noted (supra), it is apparent from the AO's order dated 21-01-2019 that, it was a case of omission to give effect to the directions of the Ld. CIT(A) Trichy. In case, the AO was aggrieved by his directions or in his view it suffered from ambiguity, he ought to have approached this Tribunal or the Ld. CIT(A). The AO cannot sit in judgment of the binding appellate order of Ld. CIT(A) and give his own interpretation to the impugned issue(s) as it would amount to gross abuse of the process of law. In our considered opinion therefore, the AO's apparent failure to give effect to the Ld. CIT(A)'s directions set out in the



:: 10 ::

appellate order dated 29-11-2018 qualified as mistake apparent from the record and therefore, the application filed by the assessee u/s 154 of the Act is held to be justified.

10. It is seen that, the AO had rejected the rectification application on the ground that, there was no apparent mistake in the Order(s) Giving Effect to the Ld. CIT(A) order passed by him. The AO had inter alia observed that, the bad debts and expenses as claimed in the return of income was allowed and therefore, no further benefit/claim was allowable to the assessee. According to us, this observation of the AO was patently erroneous in as much as the AO has surreptitiously referred to the allowance of expenses and bad debts as claimed in the original return of income filed u/s 139 of the Act and failed to give effect to the directions of the Ld. CIT(A) which was to allow the bad debts and incidental expenses as claimed by the assessee in the reconstructed/revised accounts prepared as per the seized note books. It is apparent that, this was an intentional omission of the AO's part to deny the claim which was otherwise allowed by the Ld. CIT(A). Such action of the AO refusing to follow the directions of Ld. CIT(A) is seriously deprecated.

11. Likewise, it is seen that, the AO has not made any reference to the revised accounts furnished by the assessee redrawn from the seized notebooks and as furnished in the course of assessment. The AO is noted



ITA Nos.1300 to 1303 & 1304/Chny/2025
(AYs 2008-09 to 2011-12 & 2013-14)
Seetharaman Bakthavatsalam

:: 11 ::

to have conveniently omitted to mention the same in the Order Giving Effect dated 21-01-2019 and also the impugned rectification order dated 21-06-2019. It is completely unclear to us as to whether the income finally assessed by the AO while giving effect to the Ld. CIT(A)'s order was with reference to the income as per the redrawn revised accounts of the assessee as per the seized note books or not. The AO is also noted to have simply denied the benefit of telescoping by stating that, there was no addition on account of unexplained investment, when it is apparent from the face of the records that, the additions made in the original reassessment order was on account of the loans and advances found reflected in the seized notebooks. Overall therefore, we find that, the AO has impishly avoided to truly and fairly give effect to the appellate order dated 29-11-2018 of the Ld. CIT(A) and has instead sat in judgment over his directions and intentionally misinterpreted the same to deny the rightful relief to the assessee. Such an act of disregard and disobedience of AO is strongly deprecated and hence the impugned action of Ld CIT(A) cannot be countenanced by us. The Hon'ble Supreme Court in the case of **Union of India vs Kamalakshi Finance Corporation AIR 1992 SC 711** has categorically held that the principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. We therefore hold that, the AO's inaction of correctly giving effect to the Ld. CIT(A)'s order did



:: 12 ::

amount to a patent error, which is amenable to rectification u/s 154 of the Act.

12. The Ld. DR appearing for the Revenue had vehemently supported the findings of the Ld. CIT(A) upholding the AO's rejection of the rectification application filed by the assessee u/s 154 of the Act. As observed above, the Ld. CIT(A) was of the opinion that the rectification application of the assessee required deliberation of facts and therefore cannot be a subject matter of rectification. As noted supra, the failure of AO to give full effect to the order which attained finality, which led to the assessee filing rectification petition. In such a background, the impugned action of Ld CIT(A) raising technical excuses to avoid relief to the assessee is upfront to Rule of Law and hence we are unable to countenance this narrow interpretation of the Ld. CIT(A). In the facts and circumstances discussed, we are of the view that the power of rectification u/s 154 cannot be restricted to arithmetical errors or adjustments. If in the light of any legally valid order [Ld. CIT(A)'s order dated 29-11-2018, in this case], if it is found that the order of the AO contains mistakes which are apparent from such records, the rectification of such mistakes is not barred by Section 154 of the Act. The requirement that, the mistake in the record be apparent does not imply that no other relevant document(s) needs to be looked into. The AO is duty bound to look into the entire records available with him to ascertain whether any



:: 13 ::

mistake has crept into his order and accordingly rectify the same. It is indeed true that, the AO cannot go beyond the records and look into fresh evidence and material but at the same time he is duty bound to consider all the relevant records available before him. Only because this exercise may involve time and effort on the AO's part, cannot be a reason to reject the rectification application as untenable. The object of the provision is the rectification of mistakes in the record and that object is ill-served if the authorities are compelled to preserve such mistake in the order by asking them to wear blinkers and only rectify arithmetical errors and not look into relevant unimpeachable material viz., the specific directions issued by the Ld. CIT(A) in his appellate order, in the present case.

13. It is observed that, the Ld. CIT(A) has laid much emphasis on the aspect that the rectification issue(s) pointed out by the assessee required deliberation of facts and therefore cannot be subject matter of rectification. In our opinion, by not correctly giving effect to the order dated 29-11-2018 passed by the Ld. CIT(A), the AO not only lost sight of all the statutory provisions and the guidelines issued by the Board from time to time which oblige him to give effect to the order dated 29-11-2018 passed by the Commissioner (Appeals) but this inaction constituted a patent error rectifiable u/s 154 of the Act. Under the circumstances, the AO is statutorily bound to give effect to the said appellate order.



ITA Nos.1300 to 1303 & 1304/Chny/2025
(AYs 2008-09 to 2011-12 & 2013-14)
Seetharaman Bakthavatsalam

:: 14 ::

14. For the above reasons, we set aside the orders of the lower authorities and hold that, the rectification application(s) filed by the assessee in all the impugned AYs before us is valid and entertainable. In the fitness of the matters, and in fairness to both the parties, we direct the AO to act objectively and judicially and pass appropriate order correctly giving effect to the Ld. CIT(A)'s direction set out in his appellate order dated 29-11-2018 and accordingly dispose the rectification application(s) filed by the assessee u/s 154 of the Act. Needless to say, the AO shall pass a speaking order qua each of the directions issued by the Ld. CIT(A) and shall also afford adequate opportunity of hearing to the assessee.

15. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced on the 28th day of October, 2025, in Chennai.

Sd/-

(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 28th October, 2025.

TLN



ITA Nos.1300 to 1303 & 1304/Chny/2025
(AYs 2008-09 to 2011-12 & 2013-14)
Seetharaman Bakthavatsalam

:: 15 ::

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF