

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

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:538/Chny/2025
निर्धारण वर्ष / Assessment Year: 2018-19

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| Ahmedabad Maliya Tollway Limited, 4 th Floor, Tower B, Commerzone IT Park, Mount Poonamallee Road, Chennai – 600 116. | vs. | ITO, Corporate Ward -1(1), Chennai. |
| [PAN: AABCL-5219-N] (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

अपीलार्थी की ओर से/Appellant by : Shri. N.V. Balaji, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. E. Pavuna Sundari, C.I.T.

सुनवाई की तारीख/Date of Hearing : 06.10.2025
घोषणा की तारीख/Date of Pronouncement : 20.11.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM :

The present appeal is filed by the assessee against the order dated 03.12.2024 passed by the Commissioner of Income Tax (Appeals) (hereinafter referred to as "Id.CIT(A)") for the Assessment year (A.Y) 2018-19, dismissing the appeal filed by the assessee against the rectification order dated 29.09.2022 passed u/s.154 read with section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the "Act").

2. The brief facts of the case are that the assessee is a SPV (Special Purpose Vehicle), whose business is development and maintenance of a specific portion of a

road as per the concession agreement entered into with Gujarat State Road Development Corporation (GSRDC), on a build-operate-transfer (BOT) model. In respect of the Assessment Year 2018-19, the impugned assessment year under appeal, the appellant had filed its return of income on 06.10.2018, declaring a net loss of Rs.72,47,13,769 under the normal provisions of the Act and a deemed book loss of Rs.33,65,49,614/- as per the provisions of section 115 JB of the Act.

3. The return of income of the assessee was processed and an intimation u/s.143(1) of the Act was passed on 04.11.2019 determining the loss at Rs.69,87,75,504/-. Thereafter, the case of the assessee was selected for scrutiny under CASS and an order u/s.143(3) r.w.s.144B of the Act was passed on 29.04.2021 determining the loss at Rs.42,18,19,510/-. While framing the assessment, the Assessing Officer had disallowed a sum of Rs.17,99,45,458/- claimed as a deduction u/s.37 of the Act. This sum was debited by the assessee under the head, 'Major Maintenance of Road or Resurfacing Expenses' (MMR) as a provision. The Assessing Officer, disallowed it for the reason that it is only a provision and there is no ascertained liability. Thereafter, the Assessing Officer sought to rectify the assessment order and issued a notice dated 11.06.2022. According to the Assessing Officer, in the assessment order, disallowance of MMR was made while computing the income /loss under the normal provisions of the Act and a rectification is required to consider the item (MMR) in computing the book profit u/s.115JB of the Act. The assessee resisted the rectification by arguing that the proposed rectification is not in the nature of a 'mistake apparent on record' as envisaged u/s.154 of the Act, rather, it is a technical addition. Thereafter, the rectification order came to be passed u/s.154 of the Act, rejecting the plea of the assessee.

4. Aggrieved by the order u/s.154 of the Act, passed by the Assessing Officer, the assessee filed an appeal before the Id.CIT(A) raising various grounds. The appeal came to be dismissed and aggrieved by the same, the assessee is in appeal before us.

5. Before us, the Ld.AR of the assessee submitted that the Id.CIT(A) had committed an error in dismissing the appeal. It was further argued that the rectification ought not to be done, when the issue sought to be rectified is debatable in nature. Only mistakes apparent on record could be rectified u/s.154 of the Act and that in the instant case, the rectification that was done did not qualify to be termed as a 'mistake apparent on record'. It was prayed that the appeal be allowed by holding that the rectification done by the Assessing Officer is erroneous.

6. Per contra, the Ld.DR supported the orders of the authorities below and prayed that the appeal be dismissed.

7. We have heard the rival submissions and perused the materials on record and gone through the orders of the authorities below. We find that, while passing the appellate order, the Id.CIT(A) had not adjudicated one of the grounds raised before him, that being, *"Issue 2: Disallowance of provision for major maintenance and repairs ('MMR') expenditure – jurisdiction – ground 3 – The learned AO has failed to appreciate that the disallowance of MMR computation for the purpose of section 115JB of the Act, is debatable in nature and is hence not a 'mistake' amenable to 'rectification' "*.

8. Since one of the grounds raised by the assessee is not adjudicated by the Id.CIT(A), we deem it fit to remit the case back to the file of the Id.CIT(A), for him to

adjudicate the said grounds and pass the speaking order, after giving reasonable opportunity to the assessee to present its case.

9. In the result the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20th November, 2025 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 20th November, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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