

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:833/CHNY/2026

निर्धारण वर्ष/Assessment Year: 2019-20

**The Tamil Nadu Dr.
Ambedkar Law University,**
No.5, Poompozhil Campus,
Dr. DGS Dinakaran Salai,
Raja Annamalaipuram,
Chennai – 600 028.

**The Income Tax Officer
(Exemptions),**
Vs. Ward 1,
Chennai.

PAN: AADAT 3528N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Vikram Vijayaraghavan,
Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. Ann Mary Baby, CIT

सुनवाई की तारीख/Date of Hearing

: 05.03.2026

घोषणा की तारीख/Date of Pronouncement

: 06.03.2026

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the Addl/JCIT(A)-2, Pune order dated 27.01.2026 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2019-20

2. Brief facts of the case are as follows: For the assessment year 2019-20, assessee trust had not filed its return of income. Notice u/s.148 of the Act was issued and in response to the same, assessee filed its return declaring 'nil' income. Reassessment was completed by accepting 'nil' income vide order dated 12.12.2023 passed u/s.147 r.w.s.144B of the Act. Thereafter rectification order u/s.154 r.w.s. 147 of the Act was passed on 24.12.2024. In the said rectification order, the accumulated income claimed was disallowed for the reason, audit report in Form 10AB along with the return of income was not filed within the due date prescribed u/s.139(1) of the Act.

3. Aggrieved by the order of rectification passed on 24.12.2024, assessee filed appeal before the First Appellate Authority (FAA). The FAA confirmed the order passed by the AO u/s.154 of the Act and dismissed the appeal of the assessee.

4. Aggrieved by the order of FAA, assessee has filed the present appeal before the Tribunal. The assessee has raised multiple grounds. One of the grounds raised namely, Ground No.2 reads as follows:

*“Rectification u/s 154 passed without notice is invalid:
The CIT(Appeals) failed to appreciate that the JAO Suo moto passed a rectification order u/s.154 r.w.s.147 of the Act 24.12.2024 withdrawing the benefit of accumulation of income granted in the order u/s.147 r.w.s.144B of the Act in gross violation of principles of natural justice is illegal, without jurisdiction and deserves to be quashed. This is settled law as per plethora of decisions including jurisdictional ITAT in Iljin Automotive vs. ACIT (ITA 1494/Chny/2024 dated 26.5.25).”*

5. The Ld.AR submitted that the assessment order was passed accepting 'nil' income filed by the assessee. Consequent to the rectification order dated 24.12.2024, demand of Rs.9,23,01,237/- was raised against the assessee trust. It was submitted by the Ld.AR that prior to passing of the order of rectification u/s.154 r.w.s.147 of the Act, assessee was not served with a notice u/s.154(3) of the Act. It was submitted that since the order is passed in gross violation of principles of natural justice, the same deserves to be quashed. In support of his submission, the Ld.AR relied on the order of the Chennai Bench of the Tribunal in the case of Iljin Automotive (P.) Ltd., reported in [2025] 213 ITD 88.

6. This case was originally fixed for hearing on 04.03.2026. The Bench directed the Ld.DR to peruse the assessment records to see whether notice u/s.154(3) of the Act was issued to the assessee prior to passing of order u/s.154 r.w.s.147 of the Act on

24.12.2024. The Ld.DR on 05.03.2026 fairly admitted that there is nothing on record to suggest notice has been issued prior to rectification order passed u/s.154 of the Act.

7. We have heard rival submissions and perused the material on record. Order u/s.154 of the Act was passed in order to amend / rectify the reassessment completed on 12.12.2023. In the reassessment completed, there was no demand raised since the return of income filed by the assessee trust was accepted. Consequent to the rectification order passed u/s.154 r.w.s.147 of the Act on 24.12.2024, demand of Rs.9,23,01,237/- has been raised against the assessee trust. Section 154(3) of the Act contemplates issuance of a notice if the proposed rectification results in enhancement of assessment / reducing of refund / increasing the liability of the assessee. In the instant case, admittedly, no such notice u/s.154(3) of the Act has been issued prior to passing of impugned rectification order on 24.12.2024.

8. Before the FAA, assessee had raised additional grounds stating that the order u/s.154 of the Act has been passed ex-parte without affording a proper opportunity to present its case and it is clear violation of principles of natural justice. The relevant portion

of the statement of facts filed along with the additional grounds read as follows:-

“ The Rectification order u/s 154 has been passed ex-parte without affording us a proper opportunity to present our case. The order erroneously states that the Income Tax Return (ITR) and Form 10B were not filed within the due dates. We were denied a fair chance to respond to these allegations, resulting in a prejudicial order.

Furthermore, the revised order was passed without issuing a notice and without providing me an opportunity of being heard. This is a clear violation of the principles of natural justice and the statutory requirements.” *(emphasis supplied)*

9. However, the FAA has omitted to adjudicate the above contention of the assessee.

10. The Chennai Bench of the Tribunal in the case of Ijin Automotive (P.) Ltd., (*supra*) by following the dictum laid down by the judgment of the Hon'ble Supreme Court in the case of M. Chockalingam & M.Meyyappan vs. CIT reported in [1963] 48 ITR 34 (SC) had held that when rectification has a result of enhancing the assessment / reducing the refund / increasing the liability of the assessee, necessarily a notice u/s.154 (3) of the Act has to be issued and in the absence of the same, the rectification passed u/s.154 of the Act was held to be a nullity and same was quashed.

The relevant finding of the Chennai Bench of the Tribunal in the case of Iljin Automotive (P.) Ltd., (*supra*) reads as follows:-

“8. A perusal of the aforesaid Remand Report shows that for AY 2016-17 & 2017-18, the AO couldn't trace out a copy of notice u/s.154 of the Act from the physical record maintained by him, as well as that of the ITBA; and for AY 2018-19, the AO states that copy of the notice dated 09.11.2022 was traced in ITBA but actually delivered by e-mail on 25.11.2022. In this regard, it is noted that for AY 2018-19, the AO passed the rectification order u/s.154 of the Act, three (3) days before the notice was delivered i.e.22.11.2022. Thus, it is an undisputed fact that for AY 2016-17 & 2017-18, no notice u/s.154(3) of the Act was issued before enhancing the assessment and for AY 2018-19, even though notice dated 09.11.2022 was issued by the AO, but it was delivered to the assessee only by e-mail on 25.11.2022, which means that the notice u/s.154 of the Act for AY 2018-19 has not been given to the assessee before passing the rectification order on 22.11.2022. Thus, we find that there has been a failure of sending notice to the assessee u/s.154(3) of the Act for AY 2016-17 & 2017-18; and for AY 2018-19, even though notice was sent, it was delivered in the e-mail account of the assessee after three (3) days of passing of the rectification order. Though such a fact i.e. of receiving such a notice after three (3) days is contested by the assessee and the stand of the assessee is that it has not received any notice u/s.154 of the Act for AY 2018-19, be that as it may, the Remand Report of the AO itself admits that the notice dated 09.11.2022 for AY 2018-19 was delivered to the assessee only on 25.11.2022, which was undisputedly after passing the rectification on 22.11.2022. So there is per-se violation of statutory procedure prescribed by statute as noted supra. Thus, we note that no notice was served upon the assessee before the rectification order was passed for AY 2016-17 & 2017-18 and even for AY 2018-19 and thus, department failed to demonstrate that assessee had been given reasonable opportunity of being heard by AO before he passed the impugned orders u/s.154 of the Act. Thus, we find there is violation of statutory procedure prescribed by section 154 by the AO before he took the impugned action of rectifying the earlier order, which resulted in enhancing an assessment/reducing a refund/increase the liability of the assessee. Therefore, we can't countenance the action of the AO omitting to issue statutory notice u/s.154(3) of the Act for AY 2016-17

& AY 2017-18 as well as the AO's failure to dispatch/deliver the notice for AY 2018-19 before passing the rectification order for all the captioned Assessment Years. For such a proposition, we rely on the decision of the Hon'ble Supreme Court in the case of M. Chockalingam & M. Meyyappan v. CIT reported in (1963) 48 ITR 34 (SC), wherein, the Hon'ble Supreme Court held that it is more so in this case, where the proviso to section 35 itself makes it incumbent upon the ITO to give notice and hearing to assessee when the effect of the rectification would be the enhancement of the assessment [section 35 of the Income Tax Act, 1922 is noted to be pari materia with that of section 154 of the Income Tax Act, 1961].

9. Coming to the contention of the department that failure to issue notice didn't cause any prejudice to the assessee. We are of the view that such a contention can't be raised by the AO, because when the statute provides a procedure to be followed by the AO before passing a rectification order u/s.154 of the Act, then the AO can't brush aside such a requirement of law, and act on his own, whimsically, which action will be bad in the eyes of law being an arbitrary action which offends Article 14 of the Constitution of India. Further, we are of the view that principles of "audi alteram partem" (the right to be heard) lies at the very heart of procedural fairness. No one can be condemned without being given an opportunity to present one's case. Question about prejudice caused due to non-observance of this principle couldn't be raised when such principle is incorporated in statutory proceedings. In the present case, since subsection (3) of section 154 incorporates the principle of natural justice, the department cannot contend that there was no prejudice caused to the assessee."

11. In light of the Co-ordinate Bench order of the Tribunal in the case of Iljin Automotive Pvt. Ltd., (*supra*), which has followed the dictum laid down by the Hon'ble Apex Court in the case of M. Chockalingam & M.Meyyappan vs. CIT (*supra*), we set aside the order of rectification passed u/s.154 r.w.s.147 of the Act passed

on 24.12.2024. Hence, Ground No.2 is allowed. It is ordered accordingly.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 6th March, 2026 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 6th March, 2026

RSR

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.