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NEWS LETTER

(For the month of August-September 2025)

DTBA (Direct Taxes) Regd.

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President Message

Dear Esteemed Members,

The months gone by have once again proved the strength of our unity and the importance of our collective voice. The District Taxation Bar Association (Direct Taxes), Ludhiana, has always stood together in times of challenge, and our joint resolve recently bore fruit when the Central Board of Direct Taxes extended the due date for filing of Tax Audit Reports for Assessment Year 2025–26. This success is not just a procedural relief; it is a reminder that when members act in harmony, even the highest authorities are compelled to take notice of genuine difficulties.

Equally significant has been our constant endeavour to maintain a healthy and respectful relationship with the Bench. The Executive had the opportunity to meet the Principal CIT-1, Ludhiana, as well as Hon'ble Member CBDT, Sh. P. N. Parbat. On both occasions, we presented members' concerns with clarity and dignity, while also receiving their guidance for the profession and taxpayers at large. Such engagements are vital in ensuring that the voice of the Bar reaches the authorities directly and that solutions can be sought through dialogue rather than distance.

We were also honoured by the invitations extended by the authorities to join them on important occasions, including the Independence Day celebrations and the retirement function of the Principal CCIT, Sh. Surinder Kumar. These gestures reflect a conscious effort by the Bench to strengthen bonds of harmony and mutual respect with the Bar — an approach we warmly reciprocate.

Another development of historic significance is the enactment of the **Income Tax Act, 2025**, which has received the assent of the Hon'ble President of India and will come into effect from **01.04.2026**, replacing the Income Tax Act, 1961. This transition presents a **major challenge for all of us as tax professionals**. Although the Government has issued a checklist mapping the corresponding provisions of the new and old laws, the Act contains **several far-reaching changes** which must be studied with care. The Bar shall take proactive steps to organize programs and awareness sessions to ensure our members are fully prepared for the applicability of this new regime.

Friends, while the list of activities and representations undertaken during the past two months is detailed elsewhere in this newsletter, the message I wish to leave with you is simple yet profound: **unity is our strength, and mutual**

respect is our guiding principle. Our Bar has shown that the challenges of systemic inefficiency, statutory deadlines, and professional pressures can be confronted successfully when we stand together, and when we work hand in hand with the authorities in a spirit of cooperation.

Let us continue this journey with renewed resolve — speaking with one voice, maintaining the dignity of our profession, and upholding the trust reposed in us by taxpayers and society at large.

Warm regards,
CA I S Khurana
President, District Taxation Bar Association (Direct Taxes)

SECRETARY MESSAGE

Namaskar and Warm Greetings, **Esteemed Members**,

August and September are traditionally peak months for tax professionals, marked by multiple critical statutory deadlines. This year, the burden was significantly amplified by persistent technical glitches on the Income-tax portal and an unresponsive stance from the authorities, compounding the stress for both taxpayers and professionals.

In these challenging times, the **District Taxation Bar Association (Direct Taxes)**, **Ludhiana**, has continued to stand firmly with its members and proactively represented their genuine concerns before the authorities. With great satisfaction, I wish to highlight some meaningful progress achieved through our persistent advocacy and united resolve.

Advocacy and Representation:

Extension of Due Dates: Repeated representations were made to the Hon'ble Finance Minister and senior officials, highlighting ongoing portal issues and compliance difficulties. Consequently, Circular No. 14/2025 dated 25.09.2025 extended the due date for Audit Reports. However, no relief was granted for cases other than Tax Audit Reports.

Parity for Trusts and Institutions: A detailed memorandum was submitted urging uniformity in due dates and the introduction of automatic or deemed renewal of registrations, aimed at alleviating procedural burdens faced by charitable trusts and institutions.

Technical Issues: Persistent failures and frequent disruptions of the Income-tax portal were strongly flagged, underscoring the pressing need for comprehensive systemic reforms.

Judicial Observations: As observed from media clippings, the Hon'ble Gujarat High Court, during hearings on petitions seeking deadline extensions, sharply criticized the authorities for delayed action, and further the Hon'ble Court has questioned CBDT's action to extend specified date for audit only without extending due date of filling of ITR.

Peaceful Protest: On 24.09.2025, the DTBA (Direct Taxes) organized a peaceful protest at the Income Tax Office, Ludhiana. Members wore black badges as a mark of dissent. The demonstration was widely covered by national media, bringing significant visibility to the hardships faced by both taxpayers and professionals.

Participation in Official Engagements:

On Dt.30.09.2025, it was a privilege for our President and myself to attend the retirement celebrations of the Hon'ble Chief Commissioner of Income Tax and one Inspector of Income Tax. The event also witnessed the inauguration of a library and a tree plantation ceremony, reflecting a blend of professional camaraderie, institutional development, and environmental consciousness.

Friends, The past months have been undeniably demanding, yet we could demonstrate our collective resilience, unity, and unwavering commitment to uphold the profession with integrity. Our representations and

peaceful protest were not mere expressions of inconvenience, but a stand for systemic fairness, efficiency, and accountability in tax administration.

As we enter the festive season, I encourage you to balance professional responsibilities with moments of joy, reflection, and togetherness. While many of us continue to navigate pressing statutory deadlines, let us also take time to embrace the spirit of the festivals—drawing strength, clarity, and renewal from them.

As we look ahead, let us not just measure our progress in deadlines met or tasks completed, but in the strength of the community we build, the values we uphold, and the balance we cultivate. May we continue to lead not just with expertise, but with empathy; not just with precision, but with purpose. Here I may recall the eternal guidance from The Bhagavad Gita:

उद्धरेदात्मनात्मानं नात्मानमवसादयेत, आत्मैव ह्यात्मनो बन्धुरात्मैव रिपुरात्मनः॥

("Elevate yourself through your own efforts and do not degrade yourself. For the **self alone** is the **friend** of the self, and the **self alone** is the **enemy** of the self.")

Let us carry out our responsibilities earnestly and with dedication, staying hopeful and confident that our united efforts will create meaningful future.

With warm regards,
CA Deepak Jain
Secretary,
District Taxation Bar Association (Direct Taxes), Ludhiana

FROM THE DESK OF THE EDITOR

The months of August and September 2025 were hectic months from the perspective of Income Tax as tax professionals were busy in filing income tax returns for non-audit cases, the extended due date for which was s 15th September which was further extended by 1 day to 16th September. Besides non-audit returns, various Audit reports were also due for filing upto 30th September. However, due to delay in releasing filing utilities, technical issues and portal glitches, extension of due date was demanded by the audit professionals which after much slugfest was ultimately extended to 31st October. This has given much needed time and relief to the audit professionals to complete their audit assignment on time. Needless to say, that despite extension of due date by one month, the professionals will have to maintain their work tempo as October month being a festive month may again lead to time crunch and pressure. The question of extension of due date of filing income tax returns for which due date is 31st October 2025 is being still litigated in the Gujrat High Court. A final decision in this regard is expected shortly.

The much anticipated Income Tax Bill, 2025, introduced to simplify the Income Tax and replace the Income Tax Act 1961 has also received Presidential assent and will come into force from 01.04.2026. This change is going to pose a major challenge to for us professionals.

September month also witnessed a major overhaul of GST rates which is expected to boost consumption and in turn, push economic growth which is facing challenges from penal US tariffs. Despite these challenges, India's Chief Economic Adviser, V Anantha Nageswaran, projected that the tariffs could reduce India's GDP by 0.5% in FY26, contingent on the duration of the tariff imposition. The Reserve Bank of India (RBI) Governor, Sanjay Malhotra, has also emphasized India's economic resilience, citing strong fundamentals, healthy foreign exchange reserves, and low inflation. He expressed confidence in India's ability to weather global challenges, including the U.S. tariff hikes. The Hon'ble Prime Minister has also pushed for "swadeshi" to make the country self-reliant. Looking into the future, while there are challenges, India's economic resilience, strategic policy response and diversification effort position it to navigate these turbulent waters effectively.

Sincerely Yours,
CA HITESH BHAKOO
Editor

KNOWLEDGE SECTION

CONDONATION OF DELAY IN FILING APPEALS

An appeal is a legal process wherein a higher court or authority reviews the decision or order of a lower court or authority. The primary purpose of an appeal is to correct errors in law or procedure from the original decision, ensuring justice and upholding the integrity of the legal system. The Income Tax Act, 1961 also provides a frame work for filing the appeal within prescribed timeline. However, it may happen that an appeal may not be filed within the time frame prescribed due to various reasons or circumstances. In case of delayed in filing of appeals, the remedy available to the assessee is to seek condonation of delay in filing the same. If the delay is not deliberate or willful, normally the appellate authorities take a liberal view to condone the delay. The Supreme Court of India, various High Courts and other appellate authorities have held also consistently held that a bona fide delay in filing appeal deserves to condoned. In the regard, the following observations of the Hon'ble Supreme court from the decision in the case of Collector Land Acquisition Vs. Mst. Katiji & Others, 1987 AIR 1353 are relevant:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Another reference may be made to the judgment of the Hon'ble Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123 dated 03.09.1998 where it was observed as under:

"Rule of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a

period be put to litigation). The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi lain Vs. Kuntal Kumari [AIR 1969 SC 575] and State of West Bengal Vs. The Administrator, Howrah Municipality [AIR 1972 SC 749]. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quiet a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."

From the above discussion, it can be inferred that a bona fide lapse on the party of the litigating party is amenable to condonation whereas a deliberate or mala fide tactics to gain time may be met with refusal to condone the delay. The assessee therefore, should remain vigilant that his plea for condonation must stem from genuine reasons and circumstances.

CA HITESH BHAKOO

CIRCULARS/NOTIFICATIONS AND NEWS

1. CBDT vide Notification No. 133/2025 (18.08.2025) prescribes income thresholds for valuation of perquisites u/s 17(2), thereby rationalising taxation of certain employee benefits.
2. CBDT vide Circular No. 12/2025 dated 15.09.2025 provides one-day extension for filing ITRs (AY 2025-26, non-audit cases) till 16.09.2025.
3. CBDT vide Circular No. 13/2025 dated 19.09.2025 provides waiver of interest u/s 220(2) in specified rectification cases, subject to payment of demand by 31.12.2025.
4. CBDT vide Circular No. 14/2025 dated 25.09.2025 provides extension of due date for filing tax audit reports (AY 2025-26) to 31.10.2025.

Income Tax Bill, 2025 received the assent of the Hon'ble President of India on 21 August 2025. Gujarat High Court in SCA No. 13533 of 2025 dated 26 September 2025, sought an explanation from CBDT for not extending the ITR due date in audit cases, referring to Circular No. 14/2025 and applicable law incl. one of its earlier precedent.

The Income Tax Department awarded LTIMindtree a ₹7.9 billion, PAN 2.0 contract for modernizing PAN infrastructure, to be completed within 18 months, making PAN a common business identifier.

Compiled by:

CA. Megha Oberai

JUDGMENTS SECTIONS

[2025] 177 taxmann.com 684 (SC)
Income -tax Officer *v.* Parmukh Exports
SLP dismissed against order of High Court that where Assessing Officer issued reopening notice on ground that as per information available in GSTR data, assessee had made sales and purchases of huge amount but it had not furnished sales and purchase register, since assessee had placed on record details of Form GSTR-I wherein all details of sale and purchase as submitted to GST department were provided to Assessing Officer, impugned reopening notice was unjustified

[2025] 177 taxmann.com 196 (SC)
Income-tax Officer, National Faceless Assessment Centre Delhi *v.* Consortium of Institutions of Higher Learning
SLP dismissed against order of High Court that where last date for service of notice and initiating proceedings under section 148 under unamended provisions was coming to an end on 31-3-2021 but notices had been issued from office of Department either on 1-4-2021 or on subsequent dates, impugned notices were barred by limitation under sections 148 and 149.

[2025] 177 taxmann.com 282 (SC)
Addl./ Jt./ Dy. / Asstt. CIT /ITO *v.* Shilparamam Arts Crafts and Cultural Society
SLP dismissed against order of High Court that where assessee-trust filed its income tax return for relevant year on due date however uploaded Form 10B belatedly but much before assessment order was passed, application for condonation of delay in filing Form 10B ought to have been allowed

[2025] 177 taxmann.com 470 (Bombay)
Hetal Vipul Shah *v.* Income-tax Officer
Where assessee explained that she was a housewife and purchase of flat was done entirely by her husband from his own funds/sources and not by her and she had not contributed anything towards purchase of said flat and her name was added only for sake of convenience, impugned reopening notice issued against assessee on ground that she had not disclosed correct income in her return was unjustified.

[2025] 177 taxmann.com 538 (Rajasthan)
Shree Cement Ltd. *v.* Assistant Commissioner of Income-tax
Where for assessment year 2017-18, six-year period expired on 31-3-2024, reopening notice issued on 1-5-2024 was barred by limitation and fifth and sixth provisos to section 149(1)(b) could not override restriction under first proviso
Where impugned notice under section was issued by Jurisdictional Assessing Officer and not by Faceless Assessing Officer as mandated under section 151A read with CBDT Scheme dated 29-3-2022, such notice was invalid and bad in law.

[2025] 178 taxmann.com 410 (Karnataka)
Income-tax Officer *v.* Venkatal Iyyappa Rajanna
Where a notice issued under section 148A(b) did not comply with requirement of providing a minimum period of seven days to respond to said notice, same was to be treated as contrary to law
In view of decision in case of Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), notices issued under section 148 on or after 01-04-2021 in respect of assessment year 2015-16 were liable to be dropped

[2025] 177 taxmann.com 310 (Meghalaya)
Smt. Sutapa Chakravarty *v.* Chief Commissioner of Income-tax
Where sale proceeds of transaction was parked mistakenly in Capital Gain Deposit Scheme (CGDS) account, though there was a capital loss, since capital gain was a subject matter of assessment proceedings for assessment year 2018-19, assessee was to be directed to file her revised income tax returns for assessment year 2018-19, before respondent and on such returns being filed, respondents shall then take up matter for issuance of final orders for closure of CGDS accounts

[2025] 178 taxmann.com 281 (Gujarat)
Balkrishna Mangaldas Thakkar *v.* Deputy Commissioner of Income-tax
Where assessee entered into genuine temporary loan transaction through banking channel and there was no material to show that assessee had availed/obtained accommodation entries, order under section 148A(d) and consequential notice under section 148 were not sustainable in law

[2025] 177 taxmann.com 656 (Delhi)
Lecoanet Hemant India (P.) Ltd. *v.* Deputy Commissioner of Income-tax Circle 13(1)
Where pursuant to notice under section 148A(1), Assessing Officer passed order under section 148A(3) and issued notice under section 148 by wrongly recording that assessee had not filed reply, impugned order was liable to be set aside with direction to consider assessee's reply and pass order afresh in accordance with law.

[2025] 177 taxmann.com 477 (Delhi)
Commissioner of Income Tax *v.* Diamond Tree
Common Area Maintenance (CAM) charges could not be construed as payment of rent for occupying premises, thus, same would be covered under provisions of section

194C.

[2025] 177 taxmann.com 472 (Bombay)
Commissioner of Income Tax (TDS)-2 *v.* Nish Developers (P.) Ltd.
Where assessee entered into an agreement with one ADPL to develop a plot of land and made a payment to ADPL, since transactions entered into by assessee and ADPL were on a principal to principal basis, said payment made by assessee to ADPL was not on account of 'commission or brokerage' as defined under section 194H.

[2025] 177 taxmann.com 431 (Bombay)
Jaykumar B. Patil *v.* Joint Commissioner of Income-tax Special Range-4
Where assessee-company granted advance to its shareholder to execute job work for it, however, shareholder utilized said advance for payment of income-tax under KVSS, since advance was not utilized for execution of any job work for company, same was rightly treated as deemed dividend under section 2(22)(e).

[2025] 177 taxmann.com 473 (Allahabad)
Rajeev Yadav *v.* Assistant Commissioner Income -tax
Where petitioner had challenged order passed under section 148A(d) rejecting his objections to initiation of reassessment proceedings, in view of Supreme Court ruling in Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64 / 286 Taxman 183 / 444 ITR 1 (SC), order passed under section 148A(d) was to be set aside and petitioner was to be given one more opportunity to file objections.

[2025] 177 taxmann.com 352 (SC)
Principal Commissioner of Income-tax (Central) *v.* AFFLUENCE COMMODITIES (P) LTD.
SLP dismissed against order of High Court that where assessee purchased and sold penny stocks and incurred loss, since assessee had proved genuineness of transactions and moreover assessee had no control whatsoever on share prices, addition made by Assessing Officer on account of disallowance of losses booked in penny stocks was to be deleted

[2025] 177 taxmann.com 809 (SC)
Jaguar Buildcon (P.) Ltd. *v.* Principal Commissioner of Income-tax
SLP dismissed against order of High Court that where Assessing Officer made addition under section 68 in respect of share capital received from three companies for failure to explain nature and source, and Tribunal deleted addition ignoring Assessing Officer's findings on genuineness and creditworthiness, Tribunal's order was to be set aside.

[2025] 177 taxmann.com 703 (Delhi)
Principal Commissioner of Income-tax (Central) *v.* Pancham Realcon (P.) Ltd.
Where assessee-company had deposited substantial amount of cash in bank accounts during demonetization period, since assessee usually maintained a high cash balance in books of account and substantial cash withdrawals as well as deposits into bank accounts were very much a regular feature of business of assessee, impugned cash deposits could not be treated as unexplained cash credit under section 68.

[2025] 177 taxmann.com 718 (Calcutta)
Jahar Matilal *v.* Commissioner of Income-tax
Where Assessing Officer disallowed bad debts on ground that it was only a provision, since from balance sheet it was evidently clear that bad debt was written off during year and same was reflected in balance sheet, impugned amount of bad debt was to be allowed.

[2025] 177 taxmann.com 711 (Chhattisgarh)
Commissioner of Income-tax (Exemption) *v.* Confederation of Pharma Dealers Association
Where assessee-society was engaged in promotion of trade and commerce related to pharma business and protecting rights and interests of its members, case of assessee got covered in fourth limb of section 2(15), i.e. 'advancement of any other object of general public utility', and it would be entitled to registration under section 12A.

[2025] 178 taxmann.com 617 (Rajasthan)
Tax Bar Association *v.* Union of India
Where Tax Bar Association sought extension of due date for furnishing Tax Audit Reports for Assessment Year 2025-26 due to persistent technical glitches on the e-filing portal and delayed release of audit utilities, with significantly fewer TARs filed compared to previous year and extension already granted for individual ITRs, an interim direction was issued to extend TAR filing date from 30.09.2025 to 31.10.2025 with direction to resolve portal issues.

[2025] 178 taxmann.com 658 (SC)
SUPREME COURT OF INDIA
Commissioner of Income-tax (Exemption) *v.* Anjana Foundation
SLP dismissed against order of High Court that charitable trust cannot be denied benefit of Section 11 solely for not filing audit report in Form No. 10B, as it is only a procedural requirement.

Compiled by:
CA. Megha Kalra

ARTICLE SECTION

Rectification of Mistake u/s 154 –A Remedial Tool

'To perpetuate an error is no heroism. To rectify it is the compulsion of the judicial conscience. **(Hotel Balaji v. State of Andhra Pradesh, AIR 1993 SC 1048) (SC)'** These words aptly reflect the legislative intent behind empowering tax authorities under the Income-tax Act, 1961 ("the Act") to rectify mistakes apparent from the record. One such remedial power is enshrined in Section 154 of the Act, which provides a statutory mechanism for correction of errors in orders, intimations, and related proceedings.

While the provision is intended to be applied with fairness and flexibility in order to achieve justice and equity, in practice, taxpayers and professionals often encounter challenges due to divergent interpretations and procedural hurdles. This article seeks to provide clarity on key aspects of Section 154.

Q 1. What can be rectified?

Ans. The key requirement is that the error must be apparent from the face of the record, must be of a clear and obvious error, such as arithmetical mistakes or misapplication of straightforward legal provisions, less or more credit of taxes duly paid.

Mistakes arising from conscious decisions, deliberate interpretations, or logical reasoning fall outside the scope of Section 154. (**Smriti Properties (P.) Ltd. v. Settlement Commission [2005] 149 Taxman 386/278 ITR 275 (Cal.)**)

Q 2. Which Authority's Order may be rectified?

Ans. Any of income- tax authorities as referred to in section 116 i.e. CBDT, Pr. DG/DG or Pr. CCIT/CCIT, Pr. Dir./Dir. or Pr. CIT/CIT, Dir./CIT/CIT (A), Addl. Dir. or Addl. CIT/Addl. CIT (A), Jt. Directors or Jt. CIT/ Jt. CIT (A), Dy. Dir. or Dy. CIT, Asstt. Dir. or Asstt. CIT, ITO, TRO, Inspectors.

Q 3. What is the Limitation for passing orders u/s 154 ?	**Time Limit for passing order u/s 154**
Ans. Any **order** passed under the provisions of this Act.	Upto four years from the end of the financial year in which the order sought to be amended was passed.
Any **intimation** or deemed intimation under sub-section (1) of section 143	No Time Limit
Any **intimation** under sub-section (1) of section 200A;	No Time Limit
Any **intimation** under sub-section (1) of section 206CB	No Time Limit [For detail of exceptions to Time Limit see Question-9

Q 4. What is Time Limit for disposing application after filling ?

Ans. Within Six Months from the end of month when it was received by authority. [Sub-Section (8) of Section 154]: Vide Instruction no. 01/2016 dt. 15.02.2016, Board has specifically directed to strictly follow these time lines. As per Citizen's Charter of 2010, time limit to decide on rectification applications has been fixed at 2 months from the end of the month in which application is received.

Q 5. Whether order/intimation may be rectified to the prejudice of assessee?

Ans. Yes, however only after providing a reasonable opportunity of being heard.

Q. 6. When order is subject matter of an appeal or revision etc. under the act?

Ans. The order may be revised in relation to **any matter other than the matter** which has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1) of section 154.

- The issues which are not yet decided in the appeal/revision may also be rectified. Section 154(1A) & **Piramal Investment Opportunities Fund v. Asstt. CIT [2019] 111 taxmann.com 5/267 Taxman 297 (Bom.)**.
- However once a matter has been considered or decided by the appellate authority, it cannot be rectified by the

AO. (P. Das & Co. v. Dy. CIT [1996] 87 Taxman 28/217 ITR 28 (Gau)).

Q. 7 At whose instance, rectification may be made?

Ans. The authority may make rectification on its own motion. It is rather provided that mistakes should be rectified as soon as they are discovered without waiting for assessee to point them out. See Circular:- No. 14(XL-35), dated 11-4-1955. Assessee may brought any such mistake to the notice of the authority for lawful rectification. In case of orders by Joint Commissioner (Appeals) or the Commissioner (Appeals), Assessing Officer may also approach the authority for rectification, if so required.

Q 8. Powers of the Competent Authority- Administrative or Quasi-Judicial ?

Ans. An order passed under Section 154, which allows for the rectification of mistakes apparent from the record, being Quasi-Judicial, requires adherence to procedural fairness and application of mind, including giving the assessee a reasonable opportunity to hear. By bypassing this essential procedural safeguard, the Assessing Officer's (AO's) decision becomes legally unsustainable. Such a flawed exercise of power makes the order vulnerable on the grounds of violating due process. **Shaily Engg. Plastics Ltd. v. Designated Authority Under KVSS [1999] 106 Taxman. 289/239 ITR 90 (Guj).**

Q-9. Exceptions to Time limit of Four Years:-

Ans. Ans-9. As per exact provisions of the act, time limit of 4 years has been provided. However the same is subject to following exceptions:-

i. In case of protective assessments, application may be admitted beyond four years also. **Circular No. 71 dt. 20-12-1971.**

ii. A valid application under 154(2)(b), filed within the statutory time limit but was not disposed of within the time specified U/s. 154(7), may be disposed of even after the expiry of the statutory time limit, on merits and in accordance with law. **Circular No. 73 dt. 7-1-1972**:

iii. To cancel Penalties based on cancelled/annulled assessments etc. action under section 154 of the act may be taken beyond the time limit specified under section 154(7) - Order under section 119(2)(a)/(b) **Circular No. 87 dt. 19-6-1972:**

iv. Some of the cases as prescribed u/s 155 covering special circumstances.

v. Limitation period of 4 years is not application to Intimation/s u/s 143(1)(a), 200A & 206CB of the act. For time limit of rectification, the word used in section 154(7) is "ORDER" sought to be amended was passed. Since, intimation is not an order, it implies that there is no time limit for rectification of an intimation or deemed intimation. Further explicit law in this regard as incorporated under the New Income Tax Act 2025, wherein at section 287(8) (corresponding to section 154(7)), time limit for both 'Order' and 'Intimation' has been provided further strengthens this interpretation. Differentiating 'Order' and 'Intimation', **Hon'ble Apex Court** in case of **ACIT Vs. Rajesh Jhaveri Stock Brokers Pvt. Ltd. Appeal Number: Case No. 2830 of 2007 Date of Judgement/Order: 23/05/2007,** has also noted as 'the intimation under section 143(1)(a) cannot be treated to be an order of assessment".

vi. Not giving credit for taxes already paid or non-processing of refunds In case of excess payments of tax amounts to collection of tax without authority of law which is against Article 265 of the Constitution of India as well. Undoubdlty it is a treaty law that refund of tax collected without authority of law cannot be denied citing limitations and considering this in the wisdom of the legislature, legislature have come up with **Circular No. 12/2012 dt. 20.06.2012*** wherein it is categorically provided that Order u/s 154 may be passed at any time, even after expiry of four years, for giving credit of tax already paid by the assessee by the Jurisdictional Assessing Officers after verification of the claim of the assessee on merits. It is also provided in the Circular itself that refund of the excess amount, if any, so adjusted by CPC due to inaccurate figures of arrear demand uploaded earlier is also to be granted irrespective of the time limits. Authorities are also directed to give mandatory credit in such cases by rectification or otherwise. Further being the circular being remedial in nature, no year specific and not having been withdrawn since date is equally applicable as on date also for needful action in accordance with law**. Not giving credit in such cases is also against the express mandate of S. 199/205/289 of The Act. It is also pertinent to note that this circular endorses the already expressed intention of the legislature vide **Circular:- No. 14(XL-35), dated 11-4-1955** which also emphasize in particular that department should not take advantage of an assessee's ignorance to collect more tax out of him than is legitimately due from him and this circular of 1955 is referred and relied upon by Competent Courts even these days.

*Circulars of Central Board of Direct Taxes are legally binding on the Revenue and this binding character attaches to the circulars even if they be found not in accordance with the correct interpretation of the section and they depart or deviate from such construction. Division Bench in the case of **K.P. Varghese v. ITO [1981] 7 Taxman 13/131 ITR 597 (SC).**

****Hon'ble High Court of Delhi in [2013] 31 taxmann.com 240 (Delhi)** while referring to a 53 years old circular, considering the undisputed fact therein that referred circular was not been withdrawn by that time and relying on law as laid down by Hon'ble Apex Court as well, reiterated the well-settled position of law that circulars issued by the CBDT relaxing the rigour of the provisions of the Act are binding on the Assessing Officer and others executing the Act.

Q-10. Can order passed u/s 154 be revised u/s 263?

Ans. When an order of assessment has been rectified under Section 154, it may still become the subject of a revision proceeding under Section 263. **(CIT v. Ralson Industries Ltd. [2007] 158 Taxman 160/288 ITR 322 (SC))**

Q 11. Can order be rectified on the basis of subsequent declaration of law by the SC?

Ans. A mistake that requires Rectification in view of future Apex Court's decision which is aimed at clarifying/explaining the legal position of Law, the order made earlier can be rectified u/s 154 **(Circular No.68 dated 17/11/1997).**

Q 12. What is the difference between rectification and revision?

Ans. As to scope and ambit, rectification empowers the Assessing Officer to correct clear and obvious errors in an order, whereas revisionary powers are broader and more comprehensive which empower to review the entire order.

Q 13. What is the "meaning of Record" envisaged in S. 154?

Ans. The "record" does not refer solely to the assessment order but includes all proceedings on which the assessment order is based. It includes all documents, information, details available with the income tax authority including pertaining to earlier years as well. **CIT v. M. R. M. Plantations (P.) Ltd. [1999] 102 Taxman 1/240 ITR 660 (Mad.)**

Q14. "Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned."?

Ans. Section 154(4) lays down that where any rectification is made under this section, an order of rectification SHALL BE passed in writing by the income-tax authority concerned. Refusal to make rectification shall also require an order under this section.

Some Judicial & Other Takeaways

a. Order sought to be amended does not necessarily mean the original order. It could be any order including the amended or rectified order. Thus for subsequent rectification, the time limit of four years shall be from the end of the financial year in which the earlier rectification order was passed. **[Hind Wire Industries Ltd. V CIT (1995) 212 ITR 639 (SC)]**

b. The Supreme Court in the case of **T. S. Balaram, ITO v Volkart Bros. (1971) 82 ITR 40 (SC)**, held that; "a mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long-drawn process of reasoning on points on which there may be conceivably two opinions. A decision on a debatable point of law is not a mistake apparent from the record. A look at the records must show that there has been an error and that error may be rectified;

c. Under section 154, the power to rectify the error must extend to the elimination of the error, even though the error may be such as to go the root of order and its elimination may result in the whole order falling to the ground. **[Blue Star Engineering Co.(Bombay) Pvt. Ltd. V CIT (1969) 73 ITR 283 and CIT v S.S. Gupta (2002) 257 ITR 440 (Raj.)]**

d. The **Gujarat High Court in CIT v Subodhchandra S. Patel (2004) 138 Taxman 185 (Guj.** held that non consideration of a judgment of the jurisdictional High Court or the Apex Court would always constitute a mistake apparent from record regardless of the judgment being rendered prior to or subsequent to the order proposed to be rectified.

e. Rectification of mistake is not permissible after issue of notice under section 143(2) **[CIT v Manjit Singh Sachdeva (2009) 310ITR 357.]**

CIRCULARS AND INSTRUCTIONS

1. **Circular No. 68 dt. 17-11-1971:** A mistake arising as a result of subsequent interpretation of law by the S.C. would constitute 'a mistake apparent from the records'.
2. **Circular No. 71 dt. 20-12-1971:** Income-tax Officers are authorized to take action U/s.154, or to admit or dispose of on merits applications U/s.154 filed by assessee‟s seeking relief, for cancelling such protective assessments as have become redundant by waiving, if necessary, the time limit fixed U/s. 154(7).
3. **Circular No. 73 dt. 7-1-1972:** A valid application under 154(2)(b), filed within the statutory time limit but was not disposed of within the time specified U/s. 154(7), may be disposed of even after the expiry of the statutory time limit, on merits and in accordance with law.
4. **Circular No. 87 dt. 19-6-1972:** Many a times, on the basis of which an order of penalty has been passed is itself either cancelled or annulled and yet the order of penalty survives. Where such a penalty order has not been made subject of appeal or where it has been confirmed on appeal by the AAC or on revision petition by the CIT /Addn. CIT, there will be justification for cancellation of the penalty order by the income-tax authority concerned u/s 154 ITOs/AACs/IACs/Addl. CITs/CITs are authorised to take action u/s 154 suo motu or to admit applications u/s. 154 filed by the assessee seeking cancellation of penalty orders of the type mentioned above, waiving for this purpose, as may be necessary, the time limit prescribed u/s 154(7)
5. **Circular No. No. 725 dt. 16-10-1995:** Where notifications U/s. 10(23C) or section 35(1) are issued much after the completion of the assessments of the assessment years to which such notification apply, there is a mistake apparent from the record which can be rectified U/s. 154. However, while disposing of the rectification applications, the Assessing Officer must ensure that the conditions prescribed in the notifications are satisfied.
6. **Circular No. 669 dt. 25-10-1993:** Where the sums referred to in the first proviso U/s. 43B had in fact been paid on or before the due dates mentioned therein, but the evidence therefor had been omitted to be furnished along with the return, the A.O.s can entertain applications U/s.154 for rectification of the intimations U/s. 143(1)(a) or orders u/s 143(3), as the case may be, and decide the same on merits.
7. **Circular No. 4 dt. 20-6-2012:** CBDT has authorized the A.Os to make appropriate corrections in the figures of such disputed arrear demands after due verification/reconciliation and after examining the same on merits, whether by way of rectification or otherwise, irrespective of the fact that the period of limitation of four years as provided U/s. 154(7) of the Act has elapsed.*[Also deliberated in little detail against Q.9 in proceedings paras]*
8. **Instruction No. 1/2016**: Issued by CBDT under F. No. 225/305/2015-ITA.II dated 15/02/2016: authorities are directed to strictly follow the prescribed time-limits in passing order under sub-section (8) of section 154 of Income-tax Act, 1961. It is also provide that suitable administrative action may be initiated by the supervisory officers where failure to adhere to the prescribed time frame is noticed.
9. **Instruction No. 2/2016**: Issued by CBDT under F. No. 225/305/2015-ITA.II dated 15/02/2016: Passing rectification order under section 154 of the Act in writing to be duly served upon the tax- payer concerned and not by merely making necessary rectification on the AST system.
10. **Instruction No. 3/2013:** Issued by CBDT under F. No. 225 /76/2013/ITA.II dated 05/07/2013: Maintenance of Rectification Register and certain procedures of be followed in receipt and disposal of rectification applications filed under section 154 of the Act are prescribed.

Conclusion: Section 154 is a vital remedial tool that balances revenue collection with taxpayer rights. Its judicious application ensures that neither the assessee suffers due to patent mistakes nor the Revenue is deprived of its legitimate dues. Authorities are duty-bound to use this provision proactively, keeping in mind CBDT's long-standing directive that "the department should not take advantage of an assessee's ignorance to collect more tax than is legitimately due".

At the closure we may say that considering the intent, circulars, verdicts amid purpose of the legislation, Taxman must see beyond the written confines of the Act where there lies a quieter truth i.e.: The call to amend an error is not diminished by the lateness of its discovery, as cautioned by **Justice Felix Frankfurter** in a more impressive way: - ***'Wisdom too often never comes, and so one ought not to reject it merely because it comes late'.***

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