आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री रविश सूद,न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष|

Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No. 70/Hyd/2026**
(निर्धारण वर्ष/Assessment Year: 2007-08)

Shri Ramakrishna Reddy Makireddy, Hyderabad PAN:AATPM6618D	Vs.	Assistant Commissioner of Income Tax, Circle 5(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P Murali Mohan Rao,CA	
राजस्व द्वारा/Revenue by:	Shri K. Prasad, Sr. AR	
सुनवाई की तारीख/Date of hearing:	17/09/2026	
घोषणा की तारीख/Pronouncement:	16/10/2026	

ORDER

Per Madhusudhan Sawdia, A.M.:

This appeal is filed by Shri Ramakrishna Reddy Makireddy ("the assessee"), feeling aggrieved by the order passed by the Learned Addl./JCIT (A)-1, Ahmedabad ("Ld. First Appellate Authority ") dated 18.11.2025 for the A.Y. 2007-08.

2. The assessee has raised the following grounds of appeal:

S. No	Grounds of Appeal	Tax effect
1.	The order of the Ld. CIT (A) u/s 250 of the Act dt. 18/11/2025 for the AY 2007-08 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.	General ground
2.	The Ld. CIT(A) ought to have considered the fact that the AO has erred in invoking section 154 in order to re-examine an issue which is debatable and that therefore the action of the AO is not as per law and void ab initio.	Technical ground
3.	The Ld. CIT(A) ought to have considered that the AO has grossly erred in invoking the section 154 to rectify the order, without there being any apparent mistakes amendable for rectification.	Technical ground
4.	The Ld. CIT(A) failed to appreciate that the appellant's return was processed u/s 143(1) and subsequently assessed u/s 143(3), wherein the claim of deduction was allowed after due verification, as there was no mistake apparent from the record, invocation of section 154 was unjustified, illegal, and bad in law.	Technical ground
5.	The Ld. CIT(A) failed to consider the fact that the AO ought to have fairly appreciated the law position on section 154, that no debatable issue can be touched upon u/s 154 of the Act.	Technical ground
6.	The Ld. CIT(A) failed to consider that the AO has not followed the directions of the Hon'ble ITAT at para 4 of its order in ITA No. 316/Hyd/2017, wherein remit the entire matter back to the file of the Ld. AO for de novo consideration, while passing the order u/s 154 r.w.s 254 dt. 30.03.2023, which is bad in law.	Technical ground
7.	The Ld. CIT(A) ought to have appreciated that deposit amount has been utilised for construction of house property and same should be allowable as deduction under capital gain.	Technical ground

8.	The Ld. CIT(A) ought to have appreciated the fact that the assessee is eligible for claim of deduction under section 54F of the Act, since the appellant invested capital gains to the extent of Rs. 26,66,000/- in construction of flat within three years from the sale of original property.	Technical ground
9.	The Ld. CIT(A) failed to consider that the order of the AO u/s 154 r.w.s 254 dt. 30.03.2023 is not sustainable in view of the fact that the evidences submitted by the appellant for examination could not come under the purview of the provisions of section 154 of the Act and hence deserved to be cancelled the order passed by the AO on 30.03.2023.	Technical ground
10.	The Ld. CIT(A) ought to have considered that as per the directions of the Hon'ble ITAT in its order dt. 07.04.2021, the entire issue involved with regard to the deduction u/s 54EC/54/54F is a debatable issue and cannot be considered u/s 154 of the Act and thus the order passed u/s 154 r.w.s 254 dt. 30.03.2023 is not sustainable.	Technical ground
11.	Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.	General ground

M. Ramakrishna Reddy

Appellant.

3. The brief facts of the case are that the Assessing Officer ("AO") passed the impugned assessment order under section 154 read with section 254 of the Income Tax Act, 1961 ("the Act"), dated 30.03.2023, determining the total income of the assessee at Rs. 66,49,669/-.

4. Aggrieved by the said assessment order, the assessee preferred an appeal before the Ld. First Appellate Authority, who upheld the order passed by the AO and dismissed the appeal of the assessee.

5. Aggrieved by the impugned order of the Ld. First Appellate Authority, the assessee is in appeal before this Tribunal. At the outset, the Learned Authorized Representative ("Ld. AR") raised a legal ground challenging the validity of the original rectification order passed by the AO under section 154 of the Act dated 24.03.2014. The Ld. AR submitted that the AO had wrongly invoked the provisions of section 154 of the Act for deciding a debatable issue relating to the admissibility of deduction under section 54F or section 54EC of the Act. He submitted that the scope of rectification under section 154 of the Act is confined to mistakes apparent from the record and that a debatable issue requiring examination and interpretation of the provisions of law cannot be decided by invoking the said provision. The Ld. AR further invited our attention to para nos. 2 to 4 of the order of this Tribunal passed in the first round of litigation in ITA No. 316/Hyd/2017 dated 07.04.2021. Referring to para no. 2 of the said order, the Ld. AR submitted that the assessee had specifically challenged the disallowance of deduction claimed under section 54F/54EC of the Act. He further invited our attention to para no. 4 of the said order, wherein this Tribunal had restored the issue to the file of the AO for de novo consideration. The Ld. AR submitted that the very fact that the issue relating to the admissibility of deduction under section 54F or section 54EC of the Act required fresh examination establishes that the issue was debatable in nature and could not have been the subject matter of rectification under section 154 of the Act. Accordingly, he contended that the original rectification order dated

24.03.2014 was passed without jurisdiction and was liable to be quashed. Consequently, the subsequent order dated 30.03.2023 passed under section 154 read with section 254 of the Act, being consequential to the original invalid rectification order, is also liable to be quashed.

6. Per contra, the Learned Departmental Representative ("Ld. DR") relied upon the orders of the lower authorities and supported the validity of the impugned order passed by the AO.

7. We have heard the rival submissions and perused the material available on record. We find that the principal issue arising for our consideration is whether the original rectification order passed by the AO under section 154 of the Act dated 24.03.2014, involving the admissibility of deduction under section 54F or section 54EC of the Act, was within the permissible scope of rectification contemplated under section 154 of the Act and, consequently, whether the subsequent order dated 30.03.2023 passed under section 154 read with section 254 of the Act can be sustained in law. In this regard, we have carefully gone through para nos. 2 to 4 of the order of this Tribunal passed in the first round of litigation in ITA No. 316/Hyd/2017 dated 07.04.2021. On perusal of para no. 2 of the said order, we find that the assessee had specifically raised a ground challenging the disallowance of deduction claimed under section 54F/54EC of the Act. We further find from para no. 4 of the said order that this Tribunal had restored the issue to the file of the AO for de novo consideration. Thus, the issue involved in the original

rectification proceedings related to the admissibility of deduction under section 54F or section 54EC of the Act, which required examination of the relevant facts and the applicability of the respective statutory provisions.

8. We further find that the provisions of section 154 of the Act empower the income-tax authority to rectify only a mistake apparent from the record. The scope of the said provision is limited and does not extend to reconsideration of issues which are debatable in nature or which require detailed examination of facts and interpretation of law. A mistake apparent from the record must be an obvious and patent mistake and not one which can be established only by a long-drawn process of reasoning on a point on which two opinions are possible. In this regard, the Hon'ble Supreme Court in the case of T.S. Balaram, ITO Vs. Volkart Brothers, 82 ITR 50 has held that a mistake apparent from 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 conceivably be two opinions. The Hon'ble Supreme Court further held that a decision on a debatable point of law is not a mistake apparent from the record.

9. Applying the aforesaid settled legal principle to the facts of the present case, we find that the issue relating to the admissibility of deduction under section 54F or section 54EC of the Act cannot be regarded as a mere arithmetical or patent mistake apparent from the record. The determination of eligibility for deduction under either of the said provisions

requires examination of the nature of the capital asset transferred, the investment made by the assessee, the relevant statutory conditions and the facts relating to the claim of deduction. Such determination necessarily involves consideration of the relevant facts and application of the statutory provisions to those facts. We further find that, in the first round of litigation, this Tribunal had considered the dispute relating to the deduction claimed by the assessee and restored the issue to the file of the AO for de novo consideration. Though the mere restoration of an issue for fresh consideration may not, by itself, establish that the original proceedings were without jurisdiction, the nature of the controversy recorded in para nos. 2 to 4 of the earlier order demonstrates that the dispute involved examination of the eligibility of the assessee for deduction under section 54F or section 54EC of the Act. In our considered opinion, such an issue, involving examination of facts and determination of the applicable statutory provision, cannot ordinarily be resolved by exercising the limited power of rectification under section 154 of the Act. We are of the considered opinion that the AO, while exercising jurisdiction under section 154 of the Act, cannot undertake a fresh examination of a debatable claim or substitute one possible view with another under the guise of rectification of a mistake apparent from the record. The power conferred under section 154 of the Act is not equivalent to the power of assessment or reassessment and cannot be exercised for adjudicating issues requiring detailed consideration of facts and law.

10. In the present case, the dispute regarding the admissibility of deduction under section 54F or section 54EC of the Act was not a patent mistake capable of rectification under section 154 of the Act. Rather, it was a substantive issue requiring adjudication after examination of the relevant facts and statutory conditions. Therefore, in our considered opinion, the AO exceeded the limited jurisdiction conferred under section 154 of the Act while passing the original rectification order dated 24.03.2014.

11. We further find that the subsequent order dated 30.03.2023 was passed under section 154 read with section 254 of the Act pursuant to the directions issued by this Tribunal in the first round of litigation. However, the subsequent proceedings cannot independently validate the original assumption of jurisdiction under section 154 of the Act if the subject matter of the original rectification proceedings was itself beyond the scope of the said provision. The restoration of an issue for de novo consideration does not enlarge the statutory jurisdiction of the AO or confer authority to rectify a debatable issue which otherwise falls outside the scope of section 154 of the Act.

12. In view of the foregoing discussion, we are of the considered opinion that the original rectification order dated 24.03.2014, insofar as it adjudicated the debatable issue relating to the admissibility of deduction under section 54F or section 54EC of the Act, was passed beyond the scope of jurisdiction conferred under section 154 of the Act and, therefore, cannot be sustained in law. Consequently, the

subsequent order dated 30.03.2023 passed under section 154 read with section 254 of the Act, being founded upon the original invalid rectification proceedings, is also liable to be quashed. Accordingly, we set aside the impugned order of the Ld. First Appellate Authority and quash the order passed by the AO under section 154 read with section 254 of the Act dated 30.03.2023. The legal ground raised by the assessee is accordingly allowed.

13. Since we have quashed the impugned order on the aforesaid legal ground, the other grounds raised by the assessee have become academic in nature and do not require separate adjudication.

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

Order pronounced in the Open Court on 16th October, 2026.

Sd/-	Sd/-
(RAVISH SOOD) **JUDICIAL MEMBER**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 16th October, 2026.
Vinodan/sps

Copy to:

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3	Pr. CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order