

Sec. 154 had to be invoked when AO had wrongly mentioned agriculture income under the head expenditure

Summary – The Jodhpur ITAT in a recent case of Rikhab Chand Jain, (the Assessee) held that where Assessing officer erroneously mentioned agricultural income under head expenses debited in profit and loss account against exempt income and assessee filed application for rectification, matter was to be remanded back to decide issue afresh.

Facts

- The Assessing Officer noticed that in the return, of income of the assessee the agricultural income was shown as *nil* and a relief had been allowed through the intimation under section 143(1).
- The assessee moved an application under section 154 stating therein that total income declared included agricultural income and balance income was business income and other income. The Assessing Officer rejected the application of the assessee by stating that there was no order in this case which could be rectified in terms of the provision of section 154 and the return of income filed by the assessee was simply processed under section 143(1) and there was no apparent mistake so far as the intimation is concerned.
- Being aggrieved, the assessee carried the matter to the Commissioner (Appeals) and submitted that this was not at all a case where it could be said that the assessee had sought a review of the order, but it was simple request under section 154 for rectification of a patent mistake on record which included a mistake apparent from the record. It was further stated that in this case any agricultural income which was erroneously/inadvertently mentioned under the head expenses debited in the P&L account against the exempt income wherein neither positive nor negative income of this nature appeared. It was so because no exempt income was appearing in the books of the assessee. It was contended that the relevant papers relating to agricultural income were available with the return of income, but for the year under consideration, the return filed was paperless return, so the assessee could not furnish the relevant papers with the return of income, but the Assessing Officer in the intimation under section 143(1) erroneously/inadvertently mentioned under the head expenses debited in the Profit & Loss account against the exempt income. Therefore, the assessee filed the application for rectification under section 154.
- The Commissioner (Appeals) observed that for any wrong claim or showing in wrong head, the Act provides remedy to the assessee to file a revised return of income, but the assessee had failed to do so and a mistake could not be rectified under section 154. He, therefore, confirmed the action of the Assessing Officer.

Held

- In view of the submissions of both the parties, the issue is set aside and remitted back to the file of the Commissioner (Appeals) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.