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Section 154 Rectification of Mistakes

- In order to rectify any mistake **apparent from the record** , an **INCOME TAX AUTHORITY** as specified in section 116 may;
  - Amend any order passed by it under the provisions of this Act;
  - Amend any intimation or deemed intimation under section 143(1).

- The jurisdiction of any authority under the Act is to make an order under section 154 **depends upon** the **existence of a mistake apparent on the face of the record**.

- It may be a MISTAKE OF FACT as well as MISTAKE OF LAW.

- For instance, the treatment of a **non-agricultural income** as **agricultural income** and **granting exemption in respect of such income** is an obvious mistake of law which could be rectified under section 154.

- However, a **mere change of opinion** cannot be the basis on which the same or the successor Assessing Officer can treat a case as one of rectification of mistake.

- A mistake is one apparent from the record, where it is a **glaring, obvious, patent or self-evident.**

- Mistake, which has to be discovered by a **long drawn process of reasoning or examination or arguments on points,** where there may be two opinions, **cannot be said to be mistake or error apparent from the record.**

- **A mistake arising as a result of subsequent interpretation of law by the Supreme Court would also constitute error apparent from the record.**

- **Retrospective amendment of law could also lead to rectification if an order is plainly and obviously inconsistent with the specific and clear provision, as amended retrospectively**.

- The concerned authority may make an amendment of its **own motion.**

- However he should **mandatorily make the amendment** for rectifying any such mistake **which has been brought to its notice by the assessee**.

- An amendment which has the effect of **enhancing an assessment or reducing a refund or otherwise increasing the liability** of the assessee, **shall not** be made unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

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

- Where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund due to assessee.

- Where any such amendment has the effect of
  - enhancing the assessment or
  - reducing the refund already made,
  - The Assessing Officer shall serve the assessee with a notice of demand in the prescribed form specifying the sum payable.

- No amendment under this section shall be made **after the expiry of four years from the date of the order sought to be amended.**

- It is further provided that with effect from 1st June, 2001,
  - where an application for amendment is made by the assessee on or after 1st June, 2001,
  - the income-tax authority shall pass an order within a period of six months
  - from the end of the month in which the **APPLICATION** is received by the income-tax authority,
  - Either making the amendment or refusing the claim.