

## 5. RECTIFICATION

on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued u/s 156 & provisions of this Act shall apply accordingly.

Sec 154(7) - The application for rectification u/s 154 can be filed before the expiry of 4 years from the end of the Financial Year in which the order sought to be amended was passed.

Sec 154(8) - Without prejudice to Sec 154(7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an income-tax authority referred to in Sec 154(1), the authority shall pass an order, within a period of 6 months from the end of the month in which the application is received by it,—

- a) making the amendment; or
- b) refusing to allow the claim.

If the Assessee has made the rectification application within the prescribed period of 4 years and the concerned Income-tax authority could not pass the rectification order within the said 4 years, then it is permitted that the Income-tax authority can make a belated rectification (after the said four years) TO THE ADVANTAGE OF THE ASSESSEE.

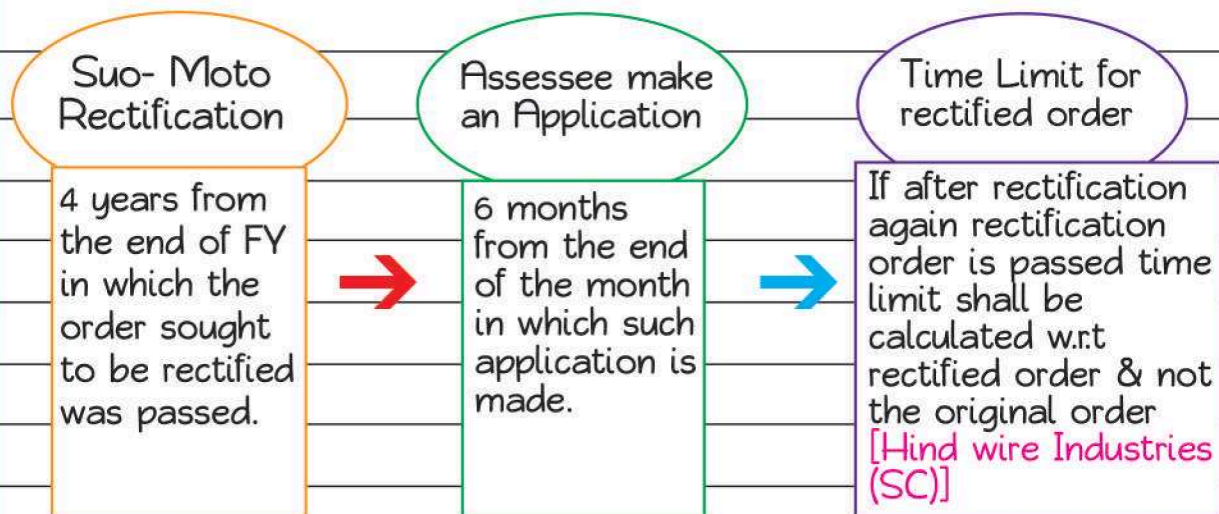
### Time Limit:

Within 4 years from the end of FY in which the order sought to be rectified was passed.[Suo moto ]

In case assessee makes an application then rectification order shall be passed within 6 months from the end of the month in which such application is made. If the order is not passed within 6months then, the

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the rectification application shall be deemed to be allowed in favor of assessee.



### Relevant Case Laws

#### Hind Wire Industries Limited (SC)

In this case, the assessee was assessed for AY 2010-11 u/s 143(3) by an assessment order dated 30.1.2011. In the said assessment, the AO allowed depreciation on buildings @ 5% whereas the correct rate of depreciation was 10%. The AO also did not allow deduction u/s 43B although it was clearly allowable. The assessee filed a rectification application u/s 154 on 12.7.2014 claiming the deductions u/s 43B. However, the assessee did not claim the issue of depreciation in the said application. The AO passed the rectification order on 31.12.2014 and allowed deductions u/s 43B. The assessee filed another rectification application u/s 154 on 4.7.2017 claiming that depreciation should have been allowed to him @ 10% instead of 5%. The issue arose before the Supreme Court as to whether the rectification application is valid since it was made after the expiry of 4 years from the end of FY in which the order u/s 143(3) was passed.

The Supreme Court held that sec 154 provides that rectification can be made before the expiry of 4 years from the end of the FY in which the order sought to be amended was passed. The order sought to be amended

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amended will not necessarily mean the original order but also the rectified order. The AO should have rectified both the mistakes in his rectification order passed u/s 154 on 31.12.2014. Since he has rectified only one mistake, there is a mistake in the order passed u/s 154. Therefore, the rectification application made on 4.7.2017 was valid and the same could have been made upto 31.3.2019. Therefore, the AO should have considered the rectification application and allowed depreciation @ 10%.

### Haryana state Handloom & Handicraft Corp

Case: can AO issue notice of Rectification to a mistake apparent from record in the intimation u/s 143[1] after the issue of valid notice u/s 143[2]?  
Held: NO, Rectification of intimation cannot be done after the issuance of notice u/s 143[2] & during the pendency of proceeding u/s 143[3].

## Multiple Choice Questions (MCQs)

- 1) Rectification is covered u/s  
a) 234      b) 154      c) 167      d) None
- 2) Rectification can be done either  
a) Suo moto    b) Application made    c) both of above    d) none of above
- 3) Rectification suo moto shall be made within \_\_\_\_\_ years  
a) one    b) two    c) three    d) four

Answers : 1) b    2) c    3) d

## For Your Practice - Solved Questions

- P.1 R, an individual, filed his return of income for AY 2020-21 on 31.07.2020. He later discovered that he had not claimed deduction u/s 80C in the said return. He claimed the said deduction through a letter addressed to the AO. The AO completed the assessment without allowing the deduction claimed by R. Is the AO justified in doing so?

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### Solution

In case of GOETZE (INDIA) LTD. VS. CIT (SC) the Supreme Court held that a claim can be made before the AO in the assessment proceedings only through a revised return and not through a letter. Therefore, if a deduction has not been claimed in the return and the assessee wants to claim the said deduction in the assessment proceedings then he can do so, only by filing a revised return. The AO cannot entertain such claim made by the assessee through a letter.

In the present question, in view of the above, AO was justified in his action.

### Know Your Exams

- P1 Is it valid in law to rectify Assessment order u/s 154 due to subsequent change of law on retrospective basis? Also, whether SC judgement would warrant rectification u/s 154 in respect of order passed earlier by AO.  
[May-11]
- P2 EIH Private Ltd's assessment for AY 2015-16 was completed u/s 143(3) on 31st Dec'17. The co went in appeal to CIT(A) & appeal was decided on 16th August'21 & appeal effect was duly given by AO on 25th Aug'21. Thereafter, on 1st Sept'22 the A.O noticed a mistake in calculation of depreciation on a particular block of assets, which reduced assessment .AO issued notice u/s 154 for rectifying ,mistake is rectification permissible[M05]
- P3 In an order of assessment for A.Y., the assessee noticed a mistake for which application u/s 154 was moved & order was rectified. Subsequently, assessee moved further application for rectification u/s 154 which was rejected by A.O on ground that order once rectified cannot be rectified again. Is the contention of AO correct?[May-03]

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P4 Mr shyam has e-filled his ITR for AY within due date declaring total Income ₹9.5L. Such total income include dividend from Indian co. of ₹50000 & LTCG on sale of shares of ₹2L. However Mr shyam correctly disclosed both such income in schedule of exempt Income. Consequently said return got processed u/s 143(1) denying exemption & intimation has been served on Mr shyam raising a demand of Tax. After receipt of said Intimation assessee filled a revised return but time limit was lapsed & such revised return declared invalid. Assessee filled for rectification u/s 154 which was also rejected by AO. Discuss the correctness of Action of AO? [May-16]