

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER  
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.154/Ahd/2026  
(Assessment Year: 2017-18)

Income Tax Officer, Ward-5(3)(2), Ahmedabad	Vs.	Udayan Mandavia, 6, Malhar Apartment, Nr. Judges Bungalows, Bodakdev, Ahmedabad-380015
[PAN No.ADKPM4202F]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Sudhakar Verma, Sr. DR
<b>Respondent by:</b>	Shri Palak Pavagadhi, AR

<b>Date of Hearing</b>	24.03.2026
<b>Date of Pronouncement</b>	26.03.2026

O R D E R

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Department against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), ADDL/JCIT(A)-10, Mumbai vide order dated 28.11.2025 passed for A.Y. 2017-18.

2. The Department has taken the following grounds of appeal:

“1. Whether the Ld.CIT(A) has erred in law and on facts in quashing order u/s 154 dated 21.10.2024 wherein the tax was re-computed on addition u/s 69A of the Act @ 60% instead of 30%, applying the amended provisions of Sec. 115BBWE of the I.T. Act, 1961 for A.Y. 2017-18 in the case of the assessee?

2. Whether the ld.CIT(A) has erred in quashing rectification order u/s 154 for computing tax incorrectly when the quantum addition u/s 69A on which tax is re-computed is under test of appeal?

- 2-

3. *Whether the Ld.CIT(A) has erred in holding that the issue relating to the applicable tax rate u/s 115BBE is debatable, despite the statutory amendment brought by the Taxation Laws (Amendment) Act, 2016 clearly prescribing 60% tax rate from A.Y. 2017-18?*

4. *The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.*

5. *It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored."*

3. The brief facts of the case are that the assessee is an individual engaged in business activities and had been subjected to assessment proceedings wherein an addition of Rs.1,40,76,000/- was made under section 69A of the Income-tax Act, 1961 ("the Act") and the total income was assessed at Rs.1,45,92,344/- under section 147 read with section 144B of the Act. Subsequently, the Assessing Officer passed an order under section 154 of the Act dated 21.10.2024 whereby the tax on the aforesaid addition was recomputed by applying the amended provisions of section 115BBE of the Act and the rate of tax was increased from 30% to 60%. The rectification was carried out on the ground that while completing the assessment, the tax had been computed at 30% whereas as per the amended provisions applicable for Assessment Year 2017-18, the correct rate was 60%.

4. Aggrieved by the rectification order, the assessee preferred an appeal before the Ld. CIT(Appeals). Before the Ld. CIT(A), the assessee contended that the rectification order passed under section 154 was bad in law since the issue relating to applicability of amended provisions of section 115BBE is highly debatable and therefore falls outside the scope of section 154 of the Act. It was further submitted that the amendment

enhancing the rate from 30% to 60% was prospective in nature and could not be applied to transactions undertaken prior to 15.12.2016. In support of this contention, reliance was placed on the decision of the Hon'ble Madras High Court in the case of S.M.I.L.E. Microfinance Ltd., wherein it was held that the enhanced rate of tax is applicable only from 01.04.2017 onwards and not to prior transactions.

5. The assessee also raised a specific ground regarding violation of principles of natural justice by contending that no show cause notice under section 154 was served and the rectification order was passed without affording any opportunity of being heard. It was submitted that the assessee came to know about the rectification order only upon receipt of SMS and no communication was received either through email or through the e-proceedings portal, thereby rendering the order invalid.

6. The Ld. CIT(Appeals), after considering the submissions of the assessee and the material available on record, noted that the original assessment was completed under section 147 and the addition under section 69A was subjected to tax under section 115BBE of the Act. The Ld. CIT(A) observed that the Assessing Officer had subsequently rectified the tax computation by applying the amended rate of 60%. However, the Ld. CIT(A) found that the issue relating to applicability of the amended provisions of section 115BBE is not free from doubt and has been subject to judicial interpretation, particularly in view of the decision of the Hon'ble Madras High Court holding that the enhanced rate is prospective.

7. The Ld. CIT(A) held that since two views are possible on the applicability of the amended rate, the issue is debatable in nature and therefore cannot be rectified under section 154 of the Act. The CIT(Appeals) further observed that rectification under section 154 of the Act can be carried out only in respect of a mistake apparent from record and not on issues requiring detailed examination or involving interpretation of law. Accordingly, the Ld. CIT(A) accepted the contention of the assessee that the action of the Assessing Officer in revising the tax rate from 30% to 60% was beyond the scope of section 154. The Ld. CIT(A) also took note of the submissions regarding non-service of notice and violation of principles of natural justice. In view of these findings, the Ld. CIT(A) quashed the rectification order passed under section 154 and allowed the appeal of the assessee.

8. The Department is in appeal before us against the order passed by CIT(Appeals) allowing the appeal of the assessee.

9. We have heard the rival contentions and perused the material available on record.

10. At the outset, we note that the issue relating to applicability of the amended provisions of section 115BBE has been subject matter of judicial consideration. The Hon'ble Madras High Court in the case of ***S.M.I.L.E Microfinance Ltd. v. ACIT*** [2025] 179 taxmann.com 65 (Madras) has clearly held that the amendment increasing the rate of tax from 30% to 60% under section 115BBE is prospective in nature and is applicable only

to transactions on or after 01.04.2017 and not to transactions prior thereto. The Hon'ble High Court further held that where the Assessing Officer fails to follow principles of natural justice or does not properly examine the facts, the matter is liable to be set aside or reconsidered. The relevant finding of the Hon'ble High Court reads as under:

*“Therefore this Court is of the considered opinion that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax.”*

11. Thus, it is evident that the issue regarding applicability of the enhanced rate under section 115BBE is not free from doubt and has been held to be prospective in nature by the Hon'ble High Court.

12. We further find that a similar issue has been considered by the Ahmedabad Bench of the Tribunal in the case of Maranbhai Bharwad vs. ITO in ITA No.272/Ahd/2024, wherein it has been held as under:

*“...this Court is of the considered opinion that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax...”*

13. Further, in the case of **Jagathesh vs. ACIT [2026] 182 taxmann.com 28 (Chennai - Trib.)[30-12-2025]**, the ITAT held that where addition under section 69A related to transactions prior to 1-4-2017, enhanced rate of 60 per cent under section 115BBE was inapplicable, such rate being operative only from assessment year 2018-19 and not for assessment year 2017-18.

14. In the case of In **Reva Enterprises v. ITO [2025] 180 taxmann.com 767 (Surat - Trib.) (AY 2017–18)**, the Tribunal held that where the assessee failed to file return and did not explain the source of cash deposits, addition under section 69A of the Act was rightly sustained; however, on the issue of taxability, it was categorically held that the amended provisions of section 115BBE enhancing the rate from 30% to 60% are prospective and **do not apply to Assessment Year 2017–18**, as the amendment is effective from 01.04.2017 and cannot be applied retrospectively to earlier transactions. Accordingly, the Tribunal directed that such additions be taxed at normal rates, though consequential penalty under section 271AAC and penalty under section 271F were upheld (subject to recomputation).

15. Therefore, in the present case, we find that the very basis of rectification is the applicability of the amended provisions of section 115BBE enhancing the rate of tax from 30% to 60%. This issue, in our considered view, is not only debatable but also stands substantially settled by judicial precedents in favour of the assessee.

16. The Hon'ble Madras High Court in *S.M.I.L.E Microfinance Ltd. v. ACIT [2025] 179 taxmann.com 65* has categorically held that the amendment to section 115BBE is prospective in nature and applicable only from 01.04.2017 onwards and not to transactions prior thereto. The Hon'ble High Court has thus clearly laid down that for earlier transactions, the pre-amended rate of 30% alone is applicable. Further, the Chennai Bench of the Tribunal in *Jagathesh vs. ACIT [2026] 182 taxmann.com 28*

has held that the enhanced rate of 60% under section 115BBE is not applicable to Assessment Year 2017–18 and would operate only from Assessment Year 2018–19 onwards. Similarly, the Surat Bench in *Reva Enterprises v. ITO* [2025] 180 taxmann.com 767 has reiterated that the amended provisions of section 115BBE are prospective and do not apply to Assessment Year 2017–18, and accordingly directed taxation at normal rates. The Ahmedabad Bench of the Tribunal in ITA No.272/Ahd/2024 has also taken a consistent view that the enhanced rate is applicable only from 01.04.2017 onwards and not prior thereto.

17. Thus, a consistent judicial view has emerged that the amended provisions of section 115BBE enhancing the rate of tax to 60% are prospective and **do not apply to Assessment Year 2017–18**. Once this position is accepted, the very foundation of the rectification order passed under section 154 collapses.

18. Even otherwise, the existence of divergent judicial opinions and the requirement of interpretation of statutory provisions clearly establishes that the issue is highly debatable in nature. Therefore, the same cannot be brought within the ambit of section 154 of the Act.

19. In view of the above discussion, and respectfully following the binding and persuasive judicial precedents, we hold that the issue of applicability of amended section 115BBE is debatable and beyond the scope of section 154 of the Act and on merits also, the enhanced rate of

- 8-

60% under section 115BBE is not applicable to the present assessment year i.e. Assessment Year 2017–18.

20. Accordingly, we find no infirmity in the order of the Ld. CIT(A) in quashing the rectification order passed under section 154 of the Act and directing that the addition be taxed in accordance with the pre-amended provisions. The order of the Ld. CIT(A) is upheld.

21. In the result, the appeal filed by the Department is dismissed.

<b>This Order is pronounced in the Open Court on</b>	<b>26/03/2026</b>
--	-------------------

**Sd/-**  
**(NARENDRA P. SINHA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 26/03/2026

*TANMAY, Sr. PS*

*TRUE COPY*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad