

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.60/Bang/2025
Assessment year : 2007-08

The Deputy Commissioner of Income Tax, Circle 3(4), Mumbai.	Vs.	Union Bank of India [erstwhile Corporation Bank], Central Account Department, 6 th Floor, Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai – 400 021. PAN: AAACU 0564G
APPELLANT		RESPONDENT

Appellant by	:	Shri Muthu Shankar, CIT(DR)(ITAT), Bengaluru.
Respondent by	:	Shri S. Ananthan, CA

Date of hearing	:	18.09.2025
Date of Pronouncement	:	04.11.2025

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by the DCIT, Circle 3(4), Mumbai (the assessee/appellant) for the assessment year 2008-08 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 10.10.2022 wherein the appeal filed by

the assessee against the rectification order dated 13.6.2016 passed u/s. 154 of the Income-tax Act, 1961 [the Act] dated 13.6.2016 was allowed.

2. Therefore the Id. AO is aggrieved and is in appeal before us on the following grounds of appeal :-

- “(i) Whether on the facts and in circumstances of the case and in law, the Ld.CIT[A] NFAC erred in holding the issue to be a mistake apparent from record & setting aside the rejection of rectification application u/s 154 by the AO, by ignoring the fact that the issue involved is debatable in nature and not a mistake apparent from record?
- ii Whether on the facts and in circumstances of the case and in law, the Ld. CIT(A), NFAC erred in relying on the decision of Hon'ble Supreme Court in the case of Saurashtra Kutch Stock Exchange Ltd, ignoring the fact that the issue is debatable, as the facts and circumstances of the present case is different to that of Vijaya Bank Vs Commissioner of income Tax (civil appeal no. 3286-3287 of 2010) & Catholic Syrian Bank Ltd Vs Commissioner Of Income Tax CIVIL APPEAL NO. 1143 OF 2011.
- iii. Whether on the facts and in circumstances of the case and in law, the Ld. CIT(A) NFAC was justified in directing the AO to delete the disallowance of bad debts amounting to Rs. 1619.82 crores pertaining to non-Rural bad debts claimed u/s 36(1) (vii) of the Act.
- iv. Whether the Ld. CIT(A), NFAC was right in holding that the provisions of 36(1)(via) of the Act do not apply to bad debts made by non rural branches particularly after insertion of explanation 2 to clause (viia) of subsection (1) of section 36 by the Finance Act 2013 with effect from 1 April 2014.”

3. The brief facts of the case show that assessee is a company, filed its return of income on 25.10.2007 claiming deduction of Rs. Rs. 129,35,38,845 u/s. 36(1)(vii) in respect of non-rural debts written off

by the assessee bank. Subsequently during the assessment proceedings this claim was withdrawn for the reason that the AO was of the view that such bad debts written off related to non-rural branches also had to be reduced against the provision. The assessment was completed u/s. 143(3) of the Act dated 31.12.2009.

4. Subsequently the assessee filed a rectification application u/s. 154 on 19.3.2012 pointing out the mistake apparent from the record in not allowing the deduction u/s. 36(1)(vii) in respect of non-rural debts written off by the assessee bank. The AO dismissed the application for rectification.
5. The assessee preferred appeal before the Id. CIT(A). The Id. CIT(A) noted that the rectification application u/s. 154 rejected by the AO is not sustainable. Therefore the Id. AO is in appeal before us.
6. The Id. DR supported the order of the Id. AO and the Id. AR supported the order of the Id. CIT(A).
7. We have carefully considered the rival contentions and perused the orders of the Id. lower authorities. The Id. AO categorically noted vide order dated 13.6.2016 holding that there is no mistake apparent from the record.
8. The brief facts show that in the original assessment proceedings the assessee was not allowed the bad debts as deduction. The claim of the assessee is that it had written off bad debts of non-rural branches amounting to Rs.77,56,75,698. During the course of assessment

proceedings, the claim was withdrawn for the reason that the Revenue was of the view that bad debts written off by the non-rural branches is also required to be adjusted against the provision allowed u/s. 36(1)(via) of the Act. However, it was found that the Hon'ble jurisdictional High Court in the case of Karnataka Bank [2009] 316 ITR 345 held that non-rural debts need not be adjusted against such provisions. Thus it was stated that the assessment is completed without considering the decision of the Hon'ble jurisdictional High Court. Therefore, assessee preferred an application before the AO which was rejected.

9. The Id. CIT(A) in para 5 has categorically held that the decision rendered by the Hon'ble High Court do not make a new law and only clarified the legal position and therefore non-consideration of the decision of the Hon'ble jurisdictional High Court constitutes a mistake apparent from the record and allowed the rectification u/s. 154 of the Act.
10. This view is further supported by the Circular No.68 [F.No.245/17/71-A&PC] dated 7.11.1971 wherein it is clarified that a mistake arising as a result of subsequent interpretation of law by the Supreme Court would constitute a mistake apparent from the record and rectification application u/s. 154 would be in order. Therefore it has been decided that when assessee moves an application u/s. 154 pointing out that in the later decision the Hon'ble Supreme Court pronounces the correct legal position, a mistake has occurred, the application shall be acted upon if filed in time. Therefore in view of the Circular issued by the Income Tax Department, no fault can be found with the order of the Id. CIT(A). In view of this, we hold that the Id. CIT(A) has correctly held that non-granting of deduction u/s. 36(1)(vii) of

the Act of Rs. 77,56,75,698 is a mistake apparent from the record and hence the same is allowable to the assessee.

11. In the result, the appeal filed by the Revenue is dismissed.

Pronounced in the open court on this 04th day of November, 2025.

Sd/-

Sd/-

(SOUNDARARAJAN K.)
JUDICIAL MEMBER

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 04th November, 2025.

/Desai S Murthy /

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|-------------------------|---------------|------------|-----------|
| 1. Appellant | 2. Respondent | 3. Pr. CIT | 4. CIT(A) |
| 5. DR, ITAT, Bangalore. | | | |

By order

Assistant Registrar
ITAT, Bangalore.