IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 396 OF 2013

Commissioner of Income Tax-II ..Appellant

Vs.

Caspro Metal Industries Pvt. Ltd. ..Respondent

....

Mr. N.N. Singh, Advocate for Appellant.
None for Respondent.

....

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 09 MARCH 2015

P.C.:

The revenue has preferred the present appeal under Section 260A of the Income Tax Act, 1961 (the 'Act') against the order dated 3 August 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal'). By the impugned order, the Tribunal dismissed the revenue's Rectification/Miscellaneous Application under Section 254(2) of the Act seeking to modify the final order dated 11 May 2011 passed under Section 254(1) of the Act by the Tribunal.

2. This Court in the case of ***Chem Amit Vs. Assistant Commissioner of Income Tax*** reported in ***272 ITR 397*** has held that:

> *"In a given case where as the consequence of an order passed on the rectification application under Section 254(2), the amendment in the order passed in appeal under Section 254(1) takes place; such amended order in appeal as a consequence of the order passed in the rectification application, however, shall be amenable to appeal under Section 260A. In so far as the present case is concerned, the assessee has only challenged the order of the Tribunal rejecting the application of rectification, the appeal under Section 260A is not maintainable."*

3. In view of the above, in this case also the impugned order rejects the appellant's application for rectification of an order passed under Section 254(1) of the Act. Thus, appeal under Section 260A from an order rejecting an application for rectification is not maintainable under Section 260A of the Act.

4. Accordingly, appeal dismissed. No order as to costs.

[G.S. KULKARNI, J] **[M.S. SANKLECHA, J.]**