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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14389 OF 2016

Mukund Bankatlal Bhattad ..Petitioner
Versus
Asst. Commissioner of Income Tax
Central Circle 2(1), Pune & Ors. ..Respondents

....
Mr. Rohan Deshpande i/b. Neelabh Shreesh for the Petitioner.
....

CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 15th FEBRUARY, 2017

P.C.

1. This petition under Article 226 of the Constitution of India challenges the order dated 11th April, 2016 passed by the Income Tax Appellate Tribunal (Tribunal) under Section 254(2) of the Income Tax Act, 1961 (the Act). The impugned order dated 11th April, 2016 has rejected the petitioner's application seeking rectification of the order dated 26th August, 2015 passed by the Tribunal under Section 254(1) of the Act in respect of Assessment Year 2007-08.

2. The grievance of the petitioner before us with regard to the impugned order of the Tribunal is that it did not appropriately consider the petitioner's submission that undue reliance was placed in the order

dated 26th August, 2015 upon the statement made by the petitioner making a declaration of Rs.28 lakhs during a search proceedings.

3. We find that the impugned order of the Tribunal has considered the submission made on behalf of the petitioner and concluded that no error apparent on record arises in the order dated 26th August, 2015 warranting a rectification of the same. The remedy, if any, with the order dated 26th August, 2015 would be an appeal from it a review under the garb of rectification of the order dated 26th August, 2015. This is so as appreciation of evidence cannot be a subject matter of rectification for error apparent on record.

4. In the above view, we see no reason to interfere with the impugned order of the Tribunal.

5. Accordingly petition dismissed. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

Wadhwa