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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8162/2017 & C.M. 33561/2017

THOMSON PRESS (INDIA) LTD. ..... Petitioner
Through: Mr. Salil Aggarwal, Advocate

Versus

PR. COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr. Asheesh Jain, Senior Standing Counsel

**CORAM:**
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**
**HON'BLE MR. JUSTICE SUNIL GAUR**

**O R D E R**

% **16.10.2017**

Issue Notice.

Mr. Asheesh Jain, Senior Standing Counsel for respondent accepts notice.

Having regard to the order this Court proposes to issue, there is no need for filing the counter affidavit. Learned Counsel for the parties were heard.

The limited grievance urged by the petitioner is that the Tribunal, by the impugned order erroneously declined rectification sought under Section 254(2) of the Income Tax Act, 1961. The petitioner had preferred an appeal to the Income Tax Appellate Tribunal (ITAT) under Section 254(2) in respect of assessment year 2007-08. That appeal was disposed of by order dated 15th January, 2016, under which the petitioner/ appellant was granted certain benefits and reliefs based upon previous judicial orders made in the case of other assesses. Immediately after that order, the petitioner/ appellant moved application under Section 254(2) for rectification, contending that the treatment in respect of sum of ₹5,31,107.41 in respect of compensation received, overlooked the fact that in previous orders, including the immediately preceding year i.e. 2006-07, the AO had granted the relief. In support of this contention, the petitioner relies upon AO's order of the year 2006-07 in the rectification petition.

It is contended on behalf of respondent that previous orders were not brought to the notice of ITAT and, therefore, could not have been subject matter of consideration by the Revenue and even otherwise if petitioner had any grievance, it was open to it to move this Court substantively under Section 260(A) of the Income Tax Act, 1961.

The scope of rectification under Section 254(2) of the Income Tax Act, 1961 is to correct the errors. It recognizes that this is a circumscribed jurisdiction. Equally, where the errors turn out of factual misappreciation or overlooking material circumstances, the jurisdiction can be resorted to. In the present case, the appellant relies upon the orders of AO for the year 2006-07 to say that a sum of ₹5,31,107.41 had received revenue treatment and relief was granted and the same course had to be adopted. Learned Counsel for the revenue appears to be correct to some extent in saying that the appeal moved by the petitioner does not reflect this aspect, which could have been considered by the ITAT and instead doing so, ITAT merely opted for rejecting the application.

In these circumstances, the impugned order is set aside. ITAT shall decide the matter afresh having regard to the previous orders with respect to compensation received as unpaid salary or leave with wages payable, which has been surrendered by the employees.

With aforesaid directions, this petition and pending applications are disposed of. All contentions of parties are kept open.

**S. RAVINDRA BHAT, J**

**SUNIL GAUR, J**

**OCTOBER 16, 2017**

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