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

INCOME TAX APPEAL NO. 9 OF 2018

Pr. Commissioner Of Income Tax-23 ...Appellant
Versus
Ikg Associates ...Respondent

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Mr. Suresh Kumar for Appellant
Mr. Rahul Sarda i/ b Mr. Sameer Dalal for Respondent.

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CORAM: K.R.SHRIRAM &
M.M.SATHAYE JJ.

DATE : 14th JUNE 2023

P.C. :-

1. The following substantial questions of law are proposed.

<u>SUBSTANTIAL QUESTIONS OF LAW</u>

6.1 Whether on the facts and in the circumstances of the case and in law, the ITAT is justified in setting aside the orders under Section 154 of the Income Tax Act, 1961 stating that where two views are possible it cannot be treated a mistake apparent from record whereas initially it was the assessee itself who had filed an application under Section 154 of the Income Tax Act, 1961 on the issue of interest under Section 234C of the Income Tax Act, 1961 not being payable ?

6.2 Whether on the facts and in the circumstances of the case and in law, ITAT was correct in holding that there was not chargeability of interest under Section 234C of the Income Tax Act, 1961 when assessee's case does not fall under any of the exceptions laid out under the said provisions of the Act and when in fact assessee had income from business and profession and method of accounting was mercantile?

2. In this case, after the assessee's returns of Income was

scrutinised and order under Section 143(3) of the Income Tax Act, 1961 (the Act) was passed, assessee filed application under Section 154 of the Act for rectification. That application was allowed. Two years later, without giving any notice to the assessee, the rectification which was allowed earlier was reversed and interest under Section 234C of the Act was imposed. The assessee did not challenge the addition but challenged the working of interest under Section 234C of the Act. The Tribunal has come to a factual finding that order is not sustainable in the eyes of law on account of non issuance of notice with regard to the addition under Section 234C of the Act.

3. In addition, the Tribunal has also gone into merits of the matter and has come to the conclusion that imposing of interest under Section 234C of the Act itself was not correct. Therefore, in our view, no substantial question of law arise. Appeal dismissed.

[M.M.SATHAYE,J.] **[K.R.SHRIRAM, J.]**