IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.08.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR. JUSTICE G.ARUL MURUGAN**

W.P.No.27564 of 2007

NEPC India Limited
A Limited Company, rep. By its Managing Director,
Having its Corporate Office,
At No.36, Wallaja Road, Chennai – 600 002. ... Petitioner

Vs

1.The Income Tax Appellate Tribunal
Chennai 'B' Bench,
Besant Nagar, Chennai – 600 090.

2.The Asst. Commissioner of Income Tax,
Central Circle, No.108, Nungambakkam High Road,
Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the first respondent in MP No.314/MDS/2005 in I.T.A.No.1019/MDS/2002 dated 12.12.2006 and quash the same and consequently direct the first respondent herein to re-consider the Miscellaneous petition filed by the petitioner herein.

For Petitioner	:	Mr.R.Kumar for Mr.T.N.Seetharaman
For Respondents	:	Mr.A.P.Srinivas Senior Standing Counsel

<u>O R D E R</u>

<u>(Order of the Court was made by Dr.ANITA SUMANTH,J.)</u>

The present writ petition challenges an order passed by the Income Tax Appellate Tribunal under Section 254(2) of the Income Tax Act, 1961 in Miscellaneous Petition. The petitioner had filed that miscellaneous petition seeking rectification of an order of the Income Tax Appellate Tribunal dated 13.12.2002 passed in M.P.No.314/Mds/05 in I.T.A.No.1019/Mds/02.

2.Vide the impugned order dated 12.12.2006, the Tribunal has concluded that there is no mistake apparent from record in terms of which it could intervene the issue in respect of which the Tribunal's intervention was sought had been considered in detail in the appellate order itself and hence, the question of rectification thus did not arise.

3.At paragraph 5, the Tribunal states as follows:

> *'5.Upon a careful consideration of the issue, we find that Section 254(2) of the Income Tax Act mandates rectification of any mistake apparent from record. In this case, we find that the Tribunal had very much considered the issue in light of the materials presented at that time with regard to the figure of Rs.10,89,64,405/- and held "perhaps this is different from what is included in the sales". In view of the aforesaid, in our opinion, the issue involved cannot be said to be matter of rectification of any mistake apparent from record; rather it will tantamount to review of the aforesaid Tribunal order which will be beyond the mandate of Section 254(2).'*

4.In light of the aforesaid, the present writ petition is itself not maintainable and the same is dismissed. No costs.

(A.S.M.,J) (G.A.M.,J)
05.08.2024

Index: Yes/No
Neutral Citation : Yes
vs

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vs

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