IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BEFORE:
HON'BLE JUSTICE RAJA BASU CHOWDHURY

WPO NO.343 OF 2025

CROWN ELECTROMECHANICAL PVT LTD.
VERSUS
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA – 1 AND ORS.

For the petitioner	:	Mr. Agnibesh Sengupta, Adv. Mr. Indranil Banerjee, Adv. Mr. Subrata Mukherjee, Adv.
For the respondents	:	Mr. Prithu Dudhoria, Adv.
Heard on	:	15.07.2025
Judgment on	**:**	**15th July, 2025**.

RAJA BASU CHOWDHURY, J (ORAL):

1. Challenging the order dated 4th March, 2025 passed by the respondent no. 1 for the assessment year 2022-23 whereby the respondent no. 1 had purported to hold that a the return filed by an assessee in ITR-6 cannot be altered even by invoking the provision of Section 264 of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') except by an assessee, the instant writ petition has been filed.

2. The petitioner claims to be an assessee within the meaning of the said Act, and in usual course had filed its return for the assessment year 2022-23. By reason of oversight certain figures which ought to have been provided in part-A of the profit and loss accounts of the petitioner in the said return were not

included in such part. The aforesaid mistake was detected when an intimation was received by the petitioner under Section 143(1) of the said Act on 7th August, 2023, intimating that the total income of the petitioner for the assessment year 2022-23 was determined to be Rs.3,58,76,000/- instead of Rs.9,54,872/- as disclosed by the petitioner. A consequential demand of Rs.1,02,60,400/- was also raised on the petitioner.

3. According to the petitioner, the aforesaid demand had been raised by reasons of failure on the part of the petitioner to incorporate the details of the figures of the profit and loss in Part-A which had been missed out by the petitioner. The missed out particulars are more fully detailed in paragraph - 3 of the petition. According to the petitioner the resultant demand was by reasons of failure to incorporate the above figures.

4. Mr. Sengupta, learned advocate appearing in support of the writ petition would submit that if such figure were considered, the demand would not have been raised by the assessing officer. According to him, by the time the petitioner received the notice under Section 143(1) of the said Act, the time to file the revised return had already expired. Finding no other alternative the petitioner had invoked the revisional jurisdiction under Section 264 of the said Act thereby, calling upon the Principal Commissioner of Income Tax, Kolkata-1 being the appropriate authority to consider the income of the petitioner correctly. Along with the above the petitioner had disclosed the audited accounts for the assessment year i.e. 2022-23, the tax audit report and had claimed that as per such disclosure, the petitioner's net profit is Rs.10,20,370/- on a turnover of Rs.5,46,59,310/-. Having regard thereto, it was contended that the profit of the petitioner for the relevant assessment year under

consideration is only Rs.9,54,872/- as against the assessed amount of Rs.3,58,76,000/-.

5. Records reveal that the said application has been rejected by the appropriate authority by the order dated 4th March, 2025 by noting that apart from the assessee, none is competent to alter the return filed in form ITR-VI.

6. Mr. Dudhoria, learned Advocate appears for the department.

7. Heard the learned advocates appearing for the respective parties and considered the materials on record. From a perusal of the order impugned, it would transpire as rightly pointed out by Mr. Sengupta that the appropriate authority despite acknowledging the fact that the application filed by the petitioner was maintainable in law had refused to permit the petitioner to rely on the disclosure made in connection with the profit and loss account only on the consideration that the particulars of the return cannot be altered by a person other than the assessee himself. In this context, it may be relevant to note that the petitioner had approached the revisional authority, inter-alia, contending that it had committed a mistake while filling its return. Admittedly, by the time the notice under Section 143(1) was issued, the time to rectify the returns for the relevant assessment year had already expired. The question, therefore, that falls for consideration in the present writ petition, is whether the revisional authority exercising jurisdiction under Section 264 of the said Act is competent to correct an error committed by the assessee.

8. I find that Mr. Sengupta, learned advocate representing the petitioner in support of his contention that the revisional authority is competent to rectify an error committed by an assessee has relied on the following judgments:

1. *Adani Gas Ltd. Vs. Principal Commissioner of Income Tax, reported in (2024) 167 taxmann.com 282, (Gujarat).*

2. Jindal Worldwide Ltd. Vs. Principal Commissioner of Income Tax, reported in [2024] 168 taxmann.com 95 (Gujarat).

3. Ena Chaudhuri Vs. Assistant Commissioner of Income Tax, reported in [2023] 148 taxmann.com 100 (Calcutta).

9. On the contrary, I find Mr. Dudhoria, learned advocate representing the respondent has placed reliance on the judgment delivered by the Hon'ble Supreme Court reported in ***(2006) 284 ITR 323 [Goetze (India) Ltd. Vs. Commissioner of Income Tax*** on the question whether the assessee could make a claim for deduction other than by filling a revised return.

10. I note that the Hon'ble Supreme Court in the said case Goetze (India) Ltd. (supra) was dealing with the claim of deduction of the assessee introduced by way of a letter of the Assessing Officer which was disallowed on the ground that there was no provision under the Income Tax Act to make amendment in the return of income by modifying the application at the assessment stage without revising the return. Although, the assessee on an appeal had succeeded before the Commissioner of Income Tax (Appeals), the department was able to secure a favorable order by way of reversal on the further appeal before the Income Tax Appellate Tribunal. The matter thus, travelled to the Supreme Court. The Hon'ble Supreme Court while considering the above and the power of the tribunal under Section 254 of the said Act observed that the tribunal can entertain for the first time a point of law provided the fact on the basis of which the issue of law can be raised was before the tribunal. While observing as such,

the Hon'ble Supreme Court had, however, made it clear that the exercise of powers by Assessing Authority does not impinge upon the power of the Income Tax Tribunal under Section 254 of the said Act. Although, much stress has been laid on the aforesaid judgment, however, I find that in the said cause as noted above, the question as to whether an error by an assessee could be corrected by a revisional authority under Section 264 was not an issue. As rightly pointed out by the learned advocate representing the petitioner and as would appear from the scheme of Section 264, the consistent view of this Court and all the other High Courts that the power under Section 264 can be exercised when a bona fide mistake has been committed even by the assessee, an appropriate rectification of the return can be effected thereunder, as has been noted in the judgment delivered in the case of ***Ena Chaudhuri*** (supra) in paragraph-11 thereof. To more fully appreciate the same, the relevant portion of the judgment is extracted hereinbelow:

> *"11. In my considered view, in the facts and circumstances of the case, Commissioner in refusal to consider the aforesaid claim of the petitioner has misinterpreted and misconstrued the judgment of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. (supra) as well as the scope of jurisdiction confer upon him under Section 264 of the Income-tax Act, 1961 by equating the same with that of the jurisdiction of the Assessing Officer in considering the claim of any allowance/deduction by an assessee in return or without filling any revised return."*

11. In view thereof, it is clear that respondent no. 1 had committed error in failing to exercise jurisdiction, thereby rejecting the above application. Having regard thereto, I remand the matter back to the appropriate authority to decide

the cause on the basis of the observation made herein. Accordingly, the order passed by respondent no. 1 is set aside.

12. WPO No. 343 of 2025 is accordingly disposed of.

(RAJA BASU CHOWDHURY, J.)

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