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

% *Date of Decision : 25.09.2025*

\+ W.P.(C) 14928/2025 CM APPL. 61483/2025

HINDUSTAN SPORTS CLUB LIMITED .....Petitioner

Through: Mr. Sahil Kapoor, Mr. Sumit Lalchandani and Ms Ananya Kapoor, Advs.

versus

INCOME TAX OFFICER, WARD -11 (3) DELHI & ANR.

.....Respondents

Through: Mr. Abhishek Maratha, Sr. Standing Counsel, Mr. Apoorv Agarwal, Mr. Parth Samwal, Jr. SCs, Ms Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms Muskaan Goel, Mr. Himanshu Gaur and Mr. Nischay Purohit Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

1. This appeal has been filed by the appellant challenging the order dated 29.07.2025 passed by the Income Tax Appellate Tribunal (Tribunal) on Miscellaneous Application being MA No.02/Del/2021 arising out of ITA

No.5487/Del/2013, relating to Assessment Year (AY) 2005-06. The Tribunal has dismissed the MA No. 02/Del/2021, a rectification application filed under Section 254(2) of the Income Tax Act, 1961 (the Act), seeking a prayer to recall the order dated 31.10.2019 passed by the Tribunal in ITA No.5487/Del/2013 and hear the appeal.

2. The Tribunal has noted that the application was filed after six months from the date of passing of the order. The Appellant placed reliance on the order of the Supreme Court ***In Re: Cognizance For Extension Of Limitation, Suo Motu Writ Petition (Civil) No.3 of 2020,*** for extending limitation during the Covid-19 pandemic period. The primary ground to file the application for recall of order dated 31.10.2019, is that the Tribunal had failed had erred in not adjudicating ground No. 1(a) i.e., the assessment order was passed on 24.12.2007, while the date of hearing was on 26.12.2007 and as such the principles of natural justice have been violated by the Assessing Officer (AO).

3. The application was vehemently opposed by the Respondent/Revenue by stating that, there is no mistake apparent on record. It was argued that the scope of Section 254(2) of the Act, is limited and Tribunal cannot review its own order. The Tribunal while dismissing the impugned order has in Paragraph No.3, held as under:

> *"3. We have considered rival contentions and perused the material on record. We have observed that the assessee has filed return of income on 30.10.2005 declaring Nil Income. The assessment was framed u/s 143(3) by the AO , vide assessment order dated 24/12/2007. It is the contention of the assessee that date fixed for*

hearing by the AO was 26.12.2007, but assessment order was framed on 24.12.2007, and hence principles of natural justice are breached , and the order of the Tribunal was to be recalled. We have observed that there are several non-compliances by the assessee i.e. seven non compliances in complying with the statutory notices issued by the AO, out of nine statutory notices issued by the AO, during the course of assessment proceedings. We have observed that being aggrieved by the assessment framed by the AO, the assessee carried the matter to ld. CIT(A), and the ld. CIT(A) dismissed appeal of the assessee ex-parte, vide order dated 06th July, 2010.Still aggrieved, the assessee carried the matter to ITAT, and the Tribunal vide appellate order dated 01.02.2011 set aside and restored the appeal of the assessee to ld. CIT(A) for re-adjudication. While setting aside and restoring the appeal of the assessee to ld. CIT(A) for re-adjudication, the Tribunal also commented as under:

> *"3.Before Parting with the order we would like to make a mention that assessee fail to appear before the Ld. CIT(A) on two three dates according to it proper service of notice was not effected to the office of Ld. CIT(A). However, it transpires to us that before AO also assessee fail to submit the details called for. To some extent there appears to be a contributory negligence at the end of assessee also. ……"*

In second round of litigation,the ld. CIT(A) dismissed the appeal of the assessed, vide appellate order dated 08.08.2013. It is recorded by the ld. CIT(A) that in Para5 that the assessee duly filed various additional evidences before ld.

CIT(A) and the assessee requested for admission of additional evidences u/r 46A. The ld. CIT(A) admitted these additional evidences and called for remand report from the AO. It is accepted position that proceedings before ld. CIT(A) are extension of assessment proceedings. The ld. CIT(A) has powers co-terminus with the powers of the AO. The AO in pursuance of directions of ld. CIT(A) submitted remand report, dated 16.01.2013. The AO also submitted that detailed report will be submitted subsequently. Vide letter dated 04.02.2023, the ld. AO submitted that the assessee is not complying with various notices and details have not been furnished because of which proper examination on merits and documents was not possible. The AO submitted third remand report dated 08.07.2013 before ld. CIT(A) , which was a detailed remand report(recorded in page 4 and 5 of ld. CIT(A) order). The assessee submitted rejoinder before ld. CIT(A), dated 01.08.2013. The said rejoinder submitted by the assesseewas on merits of the issues before ld. CIT(A). The ld. CIT(A) vide detailed elaborate order on merits, dismissed the appeal of the assessee, vide appellate order dated 08.08.2013. Still aggrieved, the assessee carried the matter before ITAT, in second round of litigation. Again, the assesseedid not appear on the date of hearing before the Tribunal, and the appeal of the assessee was dismissed by the Tribunal in limine vide orders dated 27.05.2014. Still aggrieved, the assessee filed MA before the Tribunal, which was listed as MA no.206/Del/2015 and prayed for recall of the appellate order dated 27.05.2014 in ITA no. 5487/Del/2013. The Tribunal allowed the MA and recalled its order dated 27.05.2014, vide order *dated 06.05.2016, and the appeal was restored to its original number. In third round of litigation, the Appeal of the assessee in ITA no. 5487/Del/2014 was heard by the Tribunal, and was dismissed by the Tribunal on merits by passing a detailed and elaborate order. The assesseehad filed paper book before the Tribunal, and relied on various documents and submissions, which are listed at Page No. 15 and 16 of the Tribunal Order dated 31.10.2019. Shri Ankit Gupta, Chartered Accountant appeared before the Tribunal in third round of litigation, and made detailed arguments on behalf of the assessee. The Tribunal passed detailed and elaborate order dated 31.10.2019 on merits in ITA No. 5487/Del/2013, dismissing the appeal of the assessee on merits. Even the proceedings before the Tribunal are extension of assessment proceedings, and it could not be said the ld. CIT(A) as well ITAT, did not gave fair and full hearings and opportunity to the assessee. The orders were passed on merits by both ld. CIT(A) and the Tribunal, after considering all the arguments put forth by the assessee. It is a different matter that the appeal of the assessee was dismissed on merits concurrently by the both ld. CIT(A) and the Tribunal, after considering relied upon documents and after giving full and fair hearing to the assessee. The Tribunal powers u/s 254(2) is limited to rectification of mistakes apparent from the records, and the Tribunal has no power to review its own decision. Thus, it could not be said that there is any mistake apparent from records which could be rectified by us within limited scope of Section 254(2) , nor it could be said that in the factual matrix of the case wherein the assessee did not complied with seven* *out of nine notices before the AO, that by passing the assessment order on 24.12.2007, any prejudice is caused to the assessee more so that ld. CIT(A) as well the Tribunal has given full and fair opportunity to the assessee to put forth all its contentions. No prejudice is caused to the assessee, which could warrant interference by us within limited scope of Section 254(2). Moreover, the Tribunal passed detailed order on the issues arising in the appeal on merits. We donot have power to review the decision of the Tribunal within limited scope of Section 254(2).We do not find any merits in the MA filed by the assessee, which now stood dismissed. We order accordingly.*

In the result, this misc. application in MA no. 02/Del/2021 stands dismissed.

Order pronounced in the open court on 29.07.2025"

4. From the above, we note that this case has a checkered history in as much as the Appellant/Assessee has filed return of income on 30.10.2005, declaring nil income. The assessment was framed under Section 143 of the Act by the AO vide order dated 24.12.2007. The Tribunal observed that there were several non-compliances by the Appellant/Assessee i.e. the Appellant/Assessee did not comply with seven of the nine statutory notices issued by the AO.

5. Aggrieved by the assessment order dated 24.12.2007, the Appellant/Assessee filed an appeal to the Commissioner of Income Tax (Appeal) [CIT (A)]. The CIT (A) dismissed the appeal of the Appellant/Assessee vide an *ex-parte* order dated 06.07.2010. Aggrieved by

the CIT (A) order, the assessee approached the Tribunal vide an appeal. The Tribunal vide order dated 01.02.2011 set aside the CIT (A) order and remanded the matter back to the CIT (A) for re-adjudication.

6. The CIT (A) while considering the matter noted that the Appellant/Assessee has filed additional documents/evidence, and in view of the additional evidence, the CIT (A) has called for remand report from the AO. Pursuant to the CIT (A) direction, AO submitted a remand report on 16.01.2013 and three other on 08.07.2023.The CIT (A) after allowing the rejoinder of the Appellant and hearing the parties, dismissed the appeal vide order dated 08.08.2013.

7. Aggrieved by the dismissal, another appeal was preferred by the Appellant/Assessee before Tribunal. The Appellant/Assessee did not appear on the date of hearing before the Tribunal and as such the Tribunal dismissed the appeal in *limine* vide order dated 29.05.2014. Aggrieved, the Assessee filed an application being MA No. 206/Del/2015 before Tribunal for recalling order dated 27.05.2014. The Tribunal allowed the said application and recalled its order on 06.05.2016 and the appeal was restored to its original number being ITA No.5487/Del/2013.

8. In the hearing of ITA No.5487/Del/2013, on 31.10.2019, Mr. Ankit Gupta, Chartered Accountant appeared before the Tribunal and made detailed arguments on behalf of the Appellant/Assessee. The Tribunal in the impugned order held that, even the proceedings before the Tribunal are extension of assessment proceedings, and it could not be said the CIT (A) and the Tribunal did not give the assessee a fair and full hearing opportunity. It also held that the order passed by CIT (A) and the Tribunal was on merits

i.e., after considering all relied upon documents and the arguments put forth by the assessee and as such no prejudice has been caused to the Appellant/Assessee in this regard.

9. The Tribunal was of the view that, its power under Section 254(2) of the Act is limited to rectification of mistake apparent from record and has no power to review its own decision. In the facts of the case, there is no such mistake apparent from the record, which could be rectified by the Tribunal within the limited scope of Section 254 of the Act. It also held that, in the factual matrix of the case, wherein the Appellant/Assessee did not comply with 7 out of 9 notices issued by the AO, it cannot said be that the assessment order dated 24.12.2007 passed by the AO has caused any prejudice to the Assessee. The Tribunal noted that the CIT (A) as well the Tribunal has given full and fair opportunity to the Assessee to put forth all its contentions. The Tribunal has also held that, it has passed detailed order on the issues arising in the appeal on merits and dismissed application being MA no. 02/Del/2021.

10. We agree with the conclusion drawn by the Tribunal in the given facts and circumstances of the case, (i) Assessment got initiated in the year 2005, when the Appellant/Assessee filed its Income Tax Return (ITR) i.e., 30 years have gone by. (ii) The assessment having been made on 24.12.2007 and (iii) the impugned order passed by the Tribunal is after three rounds of litigation. The Appellant's only ground is that the assessment order was passed predated to the date of hearing. In other words, the assessment order dated 24.12.2007 was passed before the date of hearing fixed by the Tribunal i.e. on 26.12.2007 and in that sense no effective hearing could be

given by the AO.

11. Though, the Appellant's submission looks appealing on a first blush but what we find is the conclusion drawn by the Tribunal in Paragraph No.3 would suffice the justification of the order. The Tribunal has rejected the only ground urged by the Appellant by referring to the history of the case. It is not once or twice that the matter was remanded to the Tribunal but on three occasions. On a specific query to Mr. Sahil Kapoor, learned counsel for the Appellant, as to whether the Appellant has challenged the order of the Tribunal dated 31.10.2019, the answer is in the negative. Hence, we find it is time to put quietus to the litigation more so the Appellant having not challenged the order dated 31.10.2019 on merits.

12. Accordingly, the impugned order warrants no intervention by this Court, and the appeal, along with the pending application, is dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 25, 2025

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