IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE G. ARUL MURUGAN

TCA No.28 of 2026

Palani Gurumurthy
No.10A, Park Lane Paper Mills Road,
Perambur, Chennai 600 011.
PAN: AIHPG8291J : Appellant

versus

The Income Tax Officer,
Non Corporate Ward 17(6),
Chennai 600 034. : Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order dated 18.11.2025 passed in M.A.No.112/Chny/2025 arising out of I.T.A.No.2952/Chny/2024 by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, for the Assessment Year 2012-13.

For Appellant	:	Mr.B.Vikram Veerasamy
For Respondent	:	Mr.Avinash Krishnan Radi Junior Stdg. Counsel

* * * * *

JUDGMENT

(Judgment of the Court was
delivered by the Hon'ble Chief Justice)

The present appeal under Section 260A of the Income Tax Act, 1961, has been filed challenging the order dated 18.11.2025 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in M.A.No.112/Chny/2025 in I.T.A.No.2952/CHNY/2024, seeking to recall the order dated 12.03.2025 passed in I.T.A.No.2952/Chny/2024.

2. Upon perusal of the records, we find that the Appellate Tribunal has already passed a detailed order, setting the appellant ex parte on 12.03.2025 and decided the appeal filed by the appellant on its own merits vide the impugned order dated 13.03.2025. As a matter of fact, as against the said order, appeal can be filed before this Court under Section 260A of the Income Tax Act, 1961. However, without availing such a remedy, an application has been filed under Section 254(2) of the Income Tax Act before the Tribunal to recall the order dated 12.03.2025 setting the appellant ex parte.

3. The Appellate Tribunal, while dismissing the said application, has rightly observed that the present application has been filed under Section 254(2) of the Income Tax Act seeking rectification of the mistake apparent on record and no such mistake has been pointed out by the appellant. Admittedly, against such an order of the Tribunal passed under Section 254(2) of the Act, the present appeal under Section 260A of the Act is not maintainable.

4. Considering an identical issue, in *Chem Amit v. Assistant Commissioner of Income Tax*[1], a Division Bench of Bombay High Court has held that an order passed by the Appellate Tribunal under Section 254(2) of the Act rejecting an application for rectification cannot be said to be an order passed in an appeal and, therefore, a further appeal to the High Court under Section 260A of the Act against such order would not lie. The said order was passed after referring to the decision of the Apex Court in *CIT v. Durga Engineering and Foundry Works*[2]. The following observation of the Division Bench is relevant to the instant case:

---
[1] *(2005) 272 ITR 397*
[2] *(2000) 245 ITR 272*

> *"6. ... **If the legislature intended to provide an appeal to the High Court from the order passed by the Tribunal on the application for rectification under Section 254(2), the legislature would not have used the expression in Section 260A that an appeal shall lie to the High Court from every order passed in appeal by the Tribunal** ..."*
>
> *[emphasis supplied]*

6. The said proposition was reiterated by another Co-ordinate Bench of the Bombay High Court in the case of *Safari Mercantile Pvt. Ltd. v. ITAT*[3], *wherein it was held as under:*

> *"7. ... **No appeal is entertained by this court from an order dismissing the miscellaneous application for rectification under section 254(2) of the Act** (see Chem Amit (supra)). Thus in the process of atoning for a mistake, one should take utmost care to ensure no further prejudice is caused. The rejection on the merits of the contentions of the parties by the Tribunal on a substantial question of law is subject to the statutory right of appeal under section 260A of the*

[3] *(2016) 386 ITR 4*

Act. This right cannot be by-passed by dealing with the merits in an miscellaneous application for rectification."

[*emphasis supplied*]

In the light of the law enunciated in the decisions referred supra, we refrain from entertaining this appeal. The tax case appeal is dismissed as not maintainable. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, CJ.) (G. ARUL MURUGAN, J.)
17.03.2026

Index : Yes/No
Neutral Citation : Yes/No

sra

To:

1. The Income Tax Appellate Tribunal,
   'A' Bench, Chennai.

2. The Income Tax Officer,
   Non Corporate Ward 17(6),
   Chennai.

THE HON'BLE CHIEF JUSTICE
AND
G. ARUL MURUGAN, J.

(sra)

TCA No.28 of 2026

17.03.2026