

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE MRS. DIVA SINGH, JUDICIAL MEMBER

ITA No.4328/Del/2016

Assessment Year: 2010-11

Smt. Meena Rao House No.20, Sector 15, Part-1 Gurgaon.	Vs.	Income Tax Officer, Ward-2(4), Gurgaon.
PAN : AKUPR 9029E		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. Pradeep Singh Gautam, Sr. D.R.
Date of hearing	03.02.2020
Date of pronouncement	06.02.2020

ORDER

The present appeal has been filed by the assessee wherein the correctness of the order dated 26.05.2016 of CIT(A)-II, Gurgaon pertaining to 2010-11 assessment year is assailed on various grounds including Ground No.1 which reads as under:

“1. The Ld. Commissioner of Income-tax (Appeals) has erred in rectifying u/s 154 of the act his own order passed u/s 250(6), which was a detailed and speaking order passed after considering all the relevant provisions of the Act, all the relevant case laws and the arguments of the Assessing Officer put forth in the assessment order.”

2. However, at the time of hearing, no one was present on behalf of the assessee. The appeal was passed over and in the second round also, the assessee remained un-present. Considering the facts it was seen that the appeal could be decided on the basis of material available on record. The appeal was taken up for hearing after hearing the Id. SR. DR Sh. Pradeep Singh Gautam.

3. The Id. Sr. DR inviting attention to the grounds raised submitted that the sole issue addressed in ground No. 1 to 4 is that the order of CIT(A) was not

rectifiable. Referring to the impugned order attention was invited to the fact that the order u/s 154 was passed by the CIT(A) in view of the rectification application dated 27.01.2016 made by the Assessing Officer u/s 154 of the Act, wherein the original order dated 17.11.2015 in Appeal No.46/14-15 u/s 250 (6) was rectified. It was submitted referring para 1, 2, 2.3 and para 2.4, that the CIT(A) has considered the reply of the assessee, the assessee has been heard who has challenged that the CIT(A) could not rectify the order. The arguments it was submitted have been extracted in the order itself. The order passed has relied on the decision of the Apex Court in the case of CIT Rajkot vs. Govindbhai Mamaiya dated 04.09.2014 and various cases. The legal proposition that rectification is maintainable has not been shown to be incorrect. It was his submission that the order passed is in accordance with law. Considering this fact that the assessee in the present proceeding, it was submitted that has not even cared to engaged any counsel as no power of attorney has been executed by the assessee. It was his prayer that the assessee has not placed anything on record to show that order was bad in law. Thus, it was his prayer that the rectification order passed by the Id. Commissioner may be upheld in the absence of any representation to the contrary. Considering the facts and the material available on record in the absence of any infirmity in the order the appeal of the assessee is dismissed. Said order was pronounced in the open court at the time of hearing itself.

4. In the result, the appeal of the assessee is dismissed.

The order is pronounced in the open court at the time of hearing itself on 06th February, 2020.

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

PK/Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR,
ITAT NEW DELHI