



IN THE INCOME TAX APPELLATE TRIBUNAL

"SMC" BENCH, MUMBAI

BEFORE SAKTIJIT DEY, JUDICIAL MEMBER AND

SHRI M. BALAGANESH, ACCOUNTANT MEMBER

M.A no.144/Mum./2020
(Arising out of ITA no.800/Mum./2019)
(Assessment Year : 2009-10)

Shri Bharat Chandrakant Jasani
37th Floor, 3197, Commercial Chamber
Yusuf Maherali Road, Masjid Bunder
Mumbai 400 003 PAN – AFCPJ7029K

..... Applicant

v/s

Income Tax Officer
Ward-27(1)(2), Mumbai

..... Respondent

Revenue by Ms. Kavita P. Kaushik
Assessee by : Shri Vimal Punmiya

Date of Hearing – 23.10.2020

Date of Order – 04.11.2020

ORDER

PER SAKTIJIT DEY, J.M.

By filing the present application, purportedly under section 254(2) of the Income Tax Act, 1961 (for short "*the Act*"), the assessee seeks recall/rectification of order dated 14th February 2020, passed in ITA no.800/ Mum./2019.

2. We have heard the parties and perused the material on record. It is the contention of the learned Authorised Representative that in

course of hearing of appeal, it was submitted that identical issue has been decided in assessee's favour in its own case by the Tribunal in assessment year 2010-11 and a copy of the said order also furnished before the Tribunal. He further submitted that while deciding the present appeal the earlier order of the Tribunal has not at all been considered. Therefore, the appeal order suffers from mistake apparent on the face of record.

3. The learned Departmental Representative submitted that the appeal having been decided on merits after considering the relevant facts and material as well as submissions made by the parties, there is no mistake apparent on the face of record.

4. Having considered rival submissions in the context of facts and material on record, it is noticed that in the course of hearing of appeal, the assessee has furnished a written submission, wherein, it was stated that while deciding identical issue in assessee's own case in assessment year 2010-11, the Tribunal has deleted the addition made by the Assessing Officer fully. In fact, a copy of the order passed by the Tribunal in ITA no.4716/Mum./2018, dated 30th August 2019, was also placed on record. However, while deciding the appeal, as it appears, the order passed by the Tribunal under similar facts and circumstances for the assessment year 2010-11 was inadvertently

overlooked. This being a mistake apparent on the face of record, we are inclined to recall the appeal order for de novo adjudication of the issue. Accordingly, the appeal order dated 14th February 2020, is hereby recalled and the appeal is restored to its original position for hearing before the regular bench in due course.

5. In the result, misc. application is allowed.

Order pronounced in the open court on 04.11.2020

Sd/-
M. BALAGANESH
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 04.11.2020

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai