

**IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH PATNA  
(IN HYBRID HEARING)**

**BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT  
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No. 240/PAT/2023  
Assessment Year: 2020-21**

SIS Cash Services Private Limited Annapurna Bhawan, Telephone Exchange Road, Kurjee, Patna-800010. (PAN: AAQCS4079N)	Vs.	ADIT, Centralized Processing Centre, Bangalore.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Kavita Jha, Sr. Advocate  
Respondent by : Sh. Ashwani Kr. Singal, JCIT

Date of Hearing : 15.04.2025  
Date of Pronouncement : 26.05.2025

**ORDER**

**Per Sanjay Awasthi, Accountant Member :**

The present appeal emanates from order passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") on 30.05.2023 by Ld. CIT(A), NFAC, Delhi.

1.1. In this case, Ld. Assessing Officer, CPC initially accepted the return of income (ROI) of the assessee vide intimation dated 31.03.2021. Thereafter, the Ld. Assessing Officer took up proceedings u/s. 154 of the Act to disallow Rs.2,25,91,254/- u/s. 36(1)(va) r.w.s. 2(24)(x) of the Act. The impugned amount represented delayed payment of employees' contribution towards PF and another amount of

Rs.20,78,087/- u/s. 40(a)(i) of the Act. it needs to be mentioned that the second amount is not under challenge before the ITAT.

1.2. Aggrieved with this action of the Ld. Assessing Officer, the assessee approached the Ld. CIT(A), where also, inspite of detailed submissions made by the assessee on legal issues, the Ld. CIT(A) upheld the action of Ld. Assessing Officer, CPC by following the case of Checkmate Services Pvt. Ltd. reported in 448 ITR 518 (SC), order dated 12.10.2022. It has been held by the Ld. CIT(A) that the Checkmate Services case laid to rest any doubt or controversy regarding the impugned issue and thus the action of Ld. Assessing Officer was upheld.

1.3. Further aggrieved with this order action of Ld. CIT(A), the assessee has approached the ITAT, with the following grounds of appeal:

*“1. That the Commissioner of Income tax (Appeals)/ National Faceless Appeal Centre (NFAC) on the facts and circumstances of the case and in law, is partly allowing the appeal filed by the appellant against the order passed by ADIT, Centralized Processing Center Bangalore (CPC) under section 154/143(1) of the Income Tax Act, 1961 (the Act).*

*2. That on the facts and circumstances of the case and in law, the NFAC erred in upholding the adjustment made by CPC amounting to Rs.2,25,91,254 under section 36(1)(va) of the Act, being employees' contribution to Provident Fund on the ground that the same was deposited beyond the time period specified.*

*3. That on the facts and circumstances of the case, the NFAC erred in not appreciating that the above adjustment made is beyond the scope of adjustments specified under section 143(1) of the Act and is consequentially without jurisdiction, bad in law and liable to be deleted.*

*4. That on the facts and circumstances of the case and in law, the NFAC erred in not appreciating that the order passed by the CPC is dated 01.07.2022 i.e. it is prior in time than the date of the decision of Hon'ble Supreme Court in the case of Checkmate Services (P.) Ltd. vs CIT: 448 ITR 518 dated 12.10.2022, ergo the issue at hand was debatable on the date of order passed by the CPC and accordingly the said order is, without jurisdiction, bad in law and liable to be quashed.*

*5. That on the facts and circumstances of the case and in law, the NFAC erred in not appreciating that the amendments in the provisions of section 36(1)(va) as well as section 43B of the Act were introduced vide Finance Act, 2021 and were applicable from assessment year 2021-22 and not the assessment year under consideration i.e. A Y 2020-21.*

*6. That on the facts and circumstances of the case and in law, the NFAC erred in not appreciating that employees contribution had been deposited before the due date of filing return of income as prescribed under section 139(1) of the Act and the same is, therefore, an allowable expenditure.”*

2. Before us, the Ld. AR argued at length with the help of a paper book running into 194 pages. This paper book contains the ROI, intimation u/s. 143(1) of the Act and intimation u/s. 154 of the Act. The paper book also contains a plethora of judgments, which shall be discussed in appropriate places in this order. The detailed arguments of the Ld. AR need to be summarized for reference:-

(i) At the time of passing of the order u/s. 143(1) of the Act and even at the time of order u/s. 154 of the Act, the case of Bihar State Warehousing Corporation Ltd., reported in 393 ITR 386 (Patna), held the field since it was the order of Hon'ble jurisdictional High Court. Through this case deduction was to be allowed in case the payments had been made in the Government account before the due date of filing of ROI.

(ii) The adjustments made to the order u/s.143(1) through rectification u/s. 154 of the Act, is beyond the scope of section 143(1), since only prima facie adjustments are permitted thereon, and certainly not adjustments which pertain to debatable issues. The Ld. AR relied on the case of Kvaverner John Brown Engg. (India) P. ltd. Vs. ACIT [2008] 170 Taxman 304 (SC) and Easter Industries Ltd. Vs. Union of India 349 ITR 324 (Del.). Reliance was also placed on the case of Mintri Tea Co. Ltd. Vs. CIT [223 CTR 241 (Cal)].

iii) It was vehemently argued that the rectification done by CPC u/s. 154 of the Act was beyond the scope of such section. The main thrust of the argument here is that the rectification was carried out vide order dated 01.07.2022, whereas the Hon'ble

Supreme Court's order in Checkmate Services P. Ltd. (supra) was dated 12.10.2022 i.e. the rectification order pre-dates the Checkmate Services (supra) order. Thus, at the time of the said rectification order the issue in question was still debatable at best. In fact the Hon'ble jurisdictional High court was in favour of the assessee due to the case of Bihar State Warehousing Corporation Ltd. (supra). At this stage, the Ld. AR also relied on the cases of Parv Buildcon Vs. DCIT [2024] 159 taxmann.com 1574 (Raipur Trib.) and the case of DCIT Vs. ANI Integrated Services Ltd. [2024] 162 taxmann.com 889 (Mum. Trib.).

iv) It was argued that the amendments in the provisions of section 36(1)(va) as well as section 43B of the Act were introduced by Finance Act, 2021 w.e.f. AY 2021-22 and not the assessment year under consideration (i.e. AY 2020-21). The Ld. AR read out the Memorandum explaining the said amendments to emphasize the point that the said amendments were applicable from AY 2021-22 only. To canvass the point that the said amendments were prospective and not retrospective, a plethora of cases have been cited. For the sake of brevity, we may mention the case of Pr. CIT Vs. T. V. Today Network Ltd. [289 Taxman 132 (Del.)]. The remaining four cases are of various Coordinate Benches of ITAT. It needs to be mentioned at this stage that all of the five cases cited are judgments delivered before the Checkmate case (supra). Thus, for example, the T.V. Today Network case is dated 27.07.2022. Similarly, the remaining four ITAT cases also pre-date the Checkmate case (supra).

v) In conclusion, the Ld. AR again emphasised the point that on the date of the rectification order, the issue was debatable at best and thus was beyond the purview of section 154 of the Act.

2.1. The Ld. DR, on the other hand, relied on the orders of the authorities below and emphasised that the Checkmate Services case (supra) had set to rest any debate or controversy in regard to the impugned issue. It was stated that after the Hon'ble Supreme Court's judgment, the issue was no longer '*res integra*'.

3. We have carefully considered the documents before us, the case laws relied upon by the Ld. AR and heard the rival submissions. We have also carefully gone through the case of Checkmate Services (supra). We feel that after a combined reading of the cases cited before us and the and a perusal of the legislative history of the sections of the Act under consideration in the present adjudication, there is a requirement of discussion as to how, purportedly, the issue has been clarified post the Checkmate Services case (supra).

3.1 Before the Supreme Court's decision in the **Checkmate Services Pvt. Ltd. v. CIT [2022] 448 ITR 518 (SC)** case, there was considerable judicial debate on whether delayed employee contributions to PF and ESI could be allowed as deductions under Section 43B, provided they were paid before the due date of filing the return of income (ROI). In Checkmate Services case (supra) the Supreme Court provided much needed clarity on the interpretation of Sections 43B and 36(1)(va) of the Act. The Hon'ble Apex Court held that employee contributions to PF and ESI are governed exclusively by Section 36(1)(va) of the Act, and not by Section 43B of the Act. The court emphasized that employee contributions must be deposited within the due dates specified under the relevant statutes. Failure to do so would result in disallowance of the deduction, **even if the**

**payment was made before the due date for filing the ROI.** We need to remind ourselves that this is exactly the case in the present appeal. The judgment reinforced the distinction between employer and employee contributions. While an employer's contributions could be governed by section 43B of the Act, employees' contributions are strictly under Section 36(1)(va) of the Act. This ruling overturned many High Court decisions that allowed deductions for delayed employee contributions under Section 43B of the Act, setting a precedent for stricter compliance.

The court focused on the basic principle that whenever a special law exists for any particular situation it would be covered under the special law and not the general law. The Latin phrase of the same being "*lex specialis derogat legi generali*". Thus, as special provisions were existing in the Act by virtue of 36(1)(va) for the employee contributions, thereby they would prevail over general provisions of Section 43B of the Act. Most importantly, the Supreme Court's decision in Checkmate Services (supra) raised concerns regarding its retrospective application. But it is a settled position that the Supreme Court case laws have a retrospective effect on the interpretation of statutes, meaning that they apply to past events as well as future ones, unless the judgment itself explicitly states it should only apply prospectively. It is a settled position that the Hon'ble Supreme Court's role is to interpret existing laws, and its decisions are seen as clarifying the true meaning of those laws, not creating new ones. Therefore, the Court's interpretation has to be considered to be the correct interpretation of law as it existed from the outset, making it applicable retrospectively.

3.2 We may also discuss some other relevant cases.

**(a)** In the case of **Saurashtra Kutch Stock Exchange Ltd 305 ITR 225 (SC)**, some relevant portions need to be extracted:

*“In the instant case, miscellaneous application came to be filed by the assessee under sub-section (2) of section 254 stating therein that a decision of the 'Jurisdictional Court', i.e., the High Court of Gujarat in Hiralal Bhagwati's case [246 ITR 188 (Guj)], was not brought to the notice of the Tribunal and, thus, there was a 'mistake apparent from record' which required rectification. [Para 39]*

*The core issue, therefore, is whether non-consideration of a decision of Jurisdictional Court or of the Supreme Court can be said to be a 'mistake apparent from the record'? Both, the Tribunal and the High Court were right in holding that such a mistake can be said to be a 'mistake apparent from the record' which can be rectified under section 254(2). [Para 40]*

*It is also well - settled that a judicial decision acts retrospectively. According to Blackstonian theory, it is not the function of the Court to pronounce a 'new rule' but to maintain and expound the 'old one'. In other words, the Judges do not make law; they only discover or find the correct law. The law has always been the same. If a subsequent decision alters the earlier one, it (the later decision) does not make a new law. It only discovers the correct principle of law which has to be applied retrospectively. To put it differently, even where an earlier decision of the Court operated for quite sometime, the decision rendered later on would have retrospective effect, clarifying the legal position which was earlier not correctly understood. [Para 42]*

*In the instant case, according to the assessee, the Tribunal had decided the matter on 27-10-2000. Hiralal Bhagwati's case (supra) was decided few months prior to that decision, but it was not brought to the attention of the Tribunal. In the circumstances, the Tribunal had not committed any error of law or of jurisdiction in exercising power under sub-section (2) of section 254 and in rectifying 'mistake apparent from the record'. Since no error was committed by the Tribunal in rectifying the mistake, the High Court was not wrong in confirming the said order. Both the orders, therefore, were strictly in consonance with law and no interference was called for. [Para 47]”*

**(b)** In the case of **Rohan Korgaonkar 298 Taxman 159 (Bom)**, the following extracts are relevant for the issue at hand:

*“The ITAT, in this case, has noted that the Assessee failed to deposit contributions to ESI and PF in the employees' accounts for the relevant assessment year before the due date under the PF/ESI Acts. However, such contributions were deposited before the Assessee filed returns under Section 139 (1) of the IT Act. The ITAT relying upon the decision of the Hon'ble Supreme Court in Checkmate Services (P.) Ltd. v. CIT held that based upon such delayed deposits, no adjustments or deductions could be claimed”. [Para 3]”*

*“In Checkmate Services (P.) Ltd. (supra), the Hon'ble Supreme Court considered the conflicting decisions on the subject and finally held that deductions or adjustments could be claimed only when the Assessee deposits the contribution before the due date provided under the Employees*

*Provident Fund/Employee State Insurance Act. If the employees' contributions are deposited after the due date set out under the said Act, there is no question of deduction or adjustment on the ground that such contributions were deposited before the filing of returns under section 139(1) of the IT Act.” [Para 4].”*

*“The ITAT has relied upon Chekmate Services (P.) Ltd. (Supra), and its reasoning is entirely consistent with the law laid down in Checkmate Services (P.) Ltd. (supra). Therefore, no case is made to interfere with the AO, CIT(Appeals), and ITAT decisions.” [Para 5]*

*“However, Ms Kamat submitted that Checkmate Services (P.) Ltd. (Supra) was a matter where the assessment was made under section 143(3) of the IT Act and not under section 143 (1) (a) as in the present case. She also relied upon P.R. Packaging Service v. Asstt. CIT [2023] 148 taxmann.com 153 (Mum. - Trib) ITA No. 2376/MUM/2022, decided by the ITAT 07/12/2022 to support her contention.” [Para 6].*

*“Though the decision cited was that of the ITAT, we have considered the same. In our judgment, however, the fact that the assessment order in Checkmate Services (P.) Ltd. (supra) was incidentally under section 143(3) and the assessment order in the present case is under section 143(1)(a) of the IT Act, makes no difference to the principle involved in this matter. The ITAT decision does not discuss why this circumstance constitutes a distinguishing feature based on which the ratio of Checkmate Services (P.) Ltd. (supra) could be departed from.” [Para 7].*

*“Checkmate Services (P.) Ltd. (Supra) holds that the deductions can be claimed or adjustments can be made under section 141(l)(a)(iv), read with section 36(1)(va) only when the employer deposits the contributions in the employees' accounts on or before the due date prescribed under the Employees Provident Fund / Employees State Insurance Act. In this case, admittedly, the contributions were deposited in the employees' accounts beyond the due date. The circumstance that the assessment order was made under section 143(1)(a) of the IT Act can make no difference.” [Para 8].*

**(c)** Furthermore, in the case of **Diversified Services 293 Taxman 48 (Guj)- 2023**, the matter was u/s 143(1) of the Act and it is illuminating to read the questions of law before the Hon'ble Court and the decision thereon. In this regard question 'c' is of importance. Some relevant extracts are as under:

*“ The appellant has framed and proposed following questions of law as substantial questions of law for this Appeal, urging to admit the Appeal for consideration of the said questions, reproduced below,*

*“(a) Whether the Income-tax Appellate Tribunal erred in law and in facts in not appreciating that payment of employee's contribution to PF/ESI having already been done by the appellant before due date of filing of return, the same ought to have been allowed as deduction under section 36(1)(va) read with section 43B of the IT Act?*

*(b) Whether the Income-tax Appellate Tribunal erred in law and in facts in not appreciating that jurisdiction under section 143(1)(a) of the IT Act is limited in nature and when different High Courts have taken different view on allowance of deduction under section 36(1)(va) read with section 43B of the IT Act with respect to payment of employee's contribution to PF/ESI having already been done by the appellant before due date of filing of return, the same cannot be termed as apparently incorrect claims from the information in the return?*

*(c) Whether the Income-tax Appellate Tribunal erred in law and in facts in holding that amendment made section 36(1)(va) and section 43B of the Income-tax Act vide Finance Act, 2021 (No.13 of 2021) is applicable retrospectively?"[Para 2.1]*

*"In view of the law emerging from the decision of the Supreme Court in Checkmate Services (P.) Ltd. (supra), the contentions and the questions raised by the appellant could be said to be no longer res integra. The law as holding the field operates against the appellant." [Para 6].*

3.3 At this stage we also need to discuss the proposition advanced by the Ld. AR that on the date of the order by Ld AO there was no judgement of the Hon'ble Apex Court and hence the issue was debatable at best. On this issue it needs to be pointed out that it is well settled that any interpretation of a statute by the Hon'ble Supreme Court imparts a meaning to it from the date on which a particular provision was brought on the statute book. Thus, this line of argument does not help the assessee. There was another argument that the amendments to sections 36(1)(va) and 43B of the Act were introduced with effect from AY 2021-22 only, whereas this case pertains to AY 2020-21. On this point it needs to be mentioned that the Hon'ble Apex Court was aware of these amendments as we can see from para 5 of the Checkmate (supra) order. Therefore, the said judgement considers the impact of such amendments and it is not for us to take any view other than the *ratio decidendi* of the Checkmate (supra) judgement. Also, the cases of Mumbai Tribunal relied upon [P R Packaging 148 taxmann.com 153 and ANI Integrated Services Ltd 162 taxmann.com 889] both are seen to put forth a proposition which may not be consistent with the law as laid down in Checkmate Services case (supra), considering that the case of P R Packaging (supra) was cited before the Hon'ble Bombay High Court and probably did not find favour with the Hon'ble Bench. We may draw

our own conclusions from relevant extracts from the case of Rohan Korgaonkar 298 Taxman 159 (Bom) (referred to earlier):

*“However, Ms Kamat submitted that Checkmate Services (P.) Ltd. (Supra) was a matter where the assessment was made under section 143(3) of the IT Act and not under section 143 (1) (a) as in the present case. She also relied upon P.R. Packaging Service v. Asstt. CIT [2023] 148 taxmann.com 153/199 ITD 724 (Mum. - Trib) ITA No. 2376/MUM/2022, decided by the ITAT 07/12/2022 to support her contention.” [Para 6]*

*“Though the decision cited was that of the ITAT, we have considered the same. In our judgment, however, the fact that the assessment order in Checkmate Services (P.) Ltd. (supra) was incidentally under section 143(3) and the assessment order in the present case is under section 143(1)(a) of the IT Act, makes no difference to the principle involved in this matter. The ITAT decision does not discuss why this circumstance constitutes a distinguishing feature based on which the ratio of Checkmate Services (P.) Ltd. (supra) could be departed from.” [Para 7]*

Both of the Mumbai Tribunal cases are on somewhat similar premise and cannot help the assessee here. Regarding the other authorities (High Court decisions, mentioned elsewhere in the body of this order) relied upon by the Ld. AR, it needs to be pointed out that all of them are before the date of the Checkmate case (supra) and we see that the starting point of the Checkmate case (supra) is the statement that various High Courts have interpreted the impugned provisions differently, requiring a final interpretation by the Hon’ble Apex Court.

3.4 It also deserves to be mentioned that in the case of **Dasari Bujji vs ITO** [ITA No. 20/Viz/2022], fairly placed on record by the Ld. AR, which is authored by one of us, the issue of making adjustments to the returned income of the assessee following the Checkmate case (supra) was held to be valid (reference para 7 of this order). The issue was decided against the assessee and in favour of Revenue. Some relevant portions of para 7 may be extracted for reference:

*“We have heard both the parties and perused the material available on record. At the outset, as rightly pointed out by the Ld. DR, the issue with regard to late remittance of the contribution under PF and ESI is settled by the Hon’ble Supreme Court in the case of Checkmate Services Pvt. Ltd. mentioned supra. Now, the only contention of the Ld.AR is that the CPC has no power to make any adjustment u/s 143(1) intimation and it is applicable w.e.f. 01.04.2021. The Ld.AR further*

*contended that the assessee never claimed any incorrect claim or there is no audit objection etc. which is mentioned u/s 143(1) of the Act. For the sake of clarity and convenience, we extract section 143(1) of the Act as under :...”*

*“In the case on hand before me, the adjustments u/s 143(1)(a) has been made on the basis of information contained in the tax audit report with respect to the belated payments of employees contribution of EPF and ESI paid beyond the due dates prescribed under the respective Act and these funds are referred in section 36(1)(va) of the Act. The information gives the details of due date of payment, actual date of payment to the concerned authorities and these payments have been made beyond the due dates specified in the respective Acts i.e. Provident Fund Act & ESI Act, which attracts the provisions of section 36(1)(va) r.w.s. 2(24)(x) of the Act, leading to disallowance of this sum to the extent not paid on or before the due date stipulated in the respective PF and ESI Act. The above view has been taken by the coordinate bench of ITAT, Chennai in the case of Sree Gokulam Chit and Finance Co.P.Ltd. Vs. DCIT, Chennai vide I.T.A.No.765/CHNY/2022 dated 21.12.2022 and also the ratio laid down by the Hon’ble Madras High Court in the case of AA520 Veerappampalayam Primary Agricultural Cooperative Credit Society Ltd. Vs. Deputy Commissioner of Income Tax [2022] 138 taxmann.com 571 (Madras) , wherein, it was categorically held that if there is any incorrect claim made in the return, the disallowance made by the CPC is valid. Therefore, I am of the view that the decisions relied on by the Ld.AR has no application, in view of the decision of Hon’ble High Court of Madras...”*

3.5 We are also conscious that one of the limbs of several arguments advanced by the Ld. AR pertained to the Checkmate Services case (supra) being pronounced after the date of the Ld. AO’s order, rendering it as a debatable issue, beyond the pale of section 154 of the Act. In this regard we draw sustenance from the order of the Hon’ble Gujrat High Court in the case of **Saurashtra Kutch Stock Exchange Ltd**, reported in 262 ITR 146 (Gujarat). A relevant portion from this case deserves to be extracted:

*“Whether the judgment of jurisdictional Court would constitute a mistake apparent from the record or not is no longer res intergra. In the case of Parshuram Pottery Works Co. Ltd. v. D.R. Trivedi, WTO [1975] 100 ITR 651 (Guj.) facts before the Court were that the petitioner-company claimed deduction of certain amount in respect of the provision for taxation while computing its net wealth. The said claim was disallowed by the Assessing Officer as according to him the provision for tax liability did not constitute a ‘debt owed’ on the valuation date. Though the said assessment was not challenged by way of appeal, when the petitioner came to know subsequently about a decision of the Tribunal allowing such a claim in some other case, the petitioner applied to the Assessing Officer for rectifying the assessment order under section 35 of the Wealth-tax Act, 1957. The said application came to be rejected on the ground that there was no mistake apparent on the face of the record. The petitioner filed revision application before the Commissioner of Wealth-tax but did not succeed. Thereupon the petitioner applied to the High Court for exercising writ jurisdiction to quash the order and*

for direction to rectify the assessment order. The High Court after referring to earlier decision of this Court in the case of *CWT v. Raipur Mfg. Co. Ltd.* [1964] 52 ITR 482 and of the Supreme Court in the case of *Kesoram Industries Cotton Mills Ltd. v. CWT* [1966] 59 ITR 767 held that the provision of taxation was 'debt owed' and was deductible while computing the net wealth of the assessee. Therefore, the High Court held that there was clearly an error of law apparent on face of the record and the assessment order was erroneous. Repelling the contention of the revenue that the aforesaid judicial pronouncements were subsequent to the date of the assessment order it is laid down that the said decisions merely stated what the law had always been and must always be understood to have been. The fact that the said decisions were not before the Assessing Officer when he made the assessment order had not material bearing on the question whether the said order discloses any mistake apparent from the record and was liable to be rectified under section 35 of the Wealth-tax Act, 1957. It was further held that the decision in the case of *Raipur Mfg. Co. Ltd.* (supra) had been brought to the attention of the Commissioner during the course of hearing of revision petition and as he failed to apply the said decision there was an error of law apparent on the face of the record. That non-preferring of appeal against the assessment could not disentitle the assessee to seek rectification once patent error of law appeared on face of the record." [Para 27]

"The aforesaid principle has been reiterated by this Court in the case of *Suhrid Geigy Ltd. v. CST* [1999] 237 ITR 834 wherein one of us (Hon'ble Mr. Justice A.R. Dave) was a party to the decision. It is laid down in the said decisions that:

"Section 13 of the Companies (Profits) Surtax Act, 1964 provides for rectification of mistake apparent from the record. A point which is debatable cannot be termed a mistake. **But when the point is covered by a decision of the Supreme Court or concerned High Court, either rendered prior to or subsequent to the order proposed to be rectified, then the point ceases to be a debatable point and it also ceases to be a point requiring elaborate arguments or detailed investigation/inquiry. The subsequent decisions of the jurisdictional High Court do not enact the law but declare the law as it always was. . .**" (emphasis added) [Para 28]

Hence, it is well settled that a decision of the jurisdictional High Court, even if rendered subsequently, would constitute a mistake apparent from the record investing an authority with jurisdiction to rectify the mistake....." [Para 29]

We may also refer to the judgement in the case of **Quality Steel Tubes Ltd** reported in 33 taxmann.com 571 (Allahabad) [2012]. In this case, the Lordships of the Hon'ble Allahabad High Court have followed the Saurashtra Kutch case (supra) and concluded as under:

"The Division Bench dealt with the contention canvassed by the Revenue that the Tribunal cannot obliterate its earlier finding/reasoning/order and the original order cannot be wiped out and came to hold as follows:

(a) The Tribunal has power to rectify a mistake apparent from the record on its own motion or on an application by a party under s. 254(2) of the Act;

(b) An order on appeal would consist of an order made under s. 254(1) of the Act or it could be an order made under sub-s. (1) as amended by an order under sub-s. (2) of s. 254 of the Act;

(c) The power of rectification is to be exercised to remove an error or correct a mistake and not for disturbing finality, the fundamental principle being, that power of rectification is for justice and fair play;

(d) that power of rectification can be exercised even if a mistake is committed by the Tribunal or even if a mistake has occurred at the instance of party to the appeal;

(e) A mistake apparent from record should be self-evident, should not be a debatable issue, but this test might breakdown, because judicial opinions differ, and what is a mistake apparent from the record cannot be defined precisely and must be left to be determined judicially on the facts of each case;

**(f) Non-consideration of a judgment of the jurisdictional High Court would always constitute a mistake apparent from the record, regardless of the judgment being rendered prior to or subsequent to the order proposed to be rectified;** (emphasis added)

(g) After the mistake is corrected, consequential order must follow, and the Tribunal has power to pass all necessary consequential orders.' [Para 10]

4. In light of the discussion above it is held that the findings in the impugned order do not deserve to be disturbed, and accordingly the same are upheld. The assessee's appeal is hereby dismissed.

5. In the result, this appeal of assessee is dismissed.

Order is pronounced in the open court on 26th May, 2025.

Sd/-  
(Duvvuru RL Reddy)  
Vice President

Sd/-  
(Sanjay Awasthi)  
Accountant Member

**Dated: 26th May, 2025**

JD, Sr. P.S.

Copy to:

1. The Appellant: SIS Cash Services Pvt. Ltd.
2. The Respondent. ADIT, CPC, Bangalore
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata Bench, Kolkata
6. Guard file.

True Copy

By Order  
Assistant Registrar  
ITAT, Patna Bench, Patna