

**IN THE INCOME TAX APPELLATE TRIBUNAL,
"SMC" BENCH MUMBAI**

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

M.A. No. 174/MUM/2025

(Arising out of ITA No. 6428/MUM/2024, A.Y.2010-11)

Vinod Omprakash Kainya Flat No. 41/42, Minal Apartment, Juhu Tara Road, Santacruz West, Mumbai - 400054	Vs.	Assistant Commissioner of Income Tax Circle 25(1) Room No 402, 4 th Floor, Pratyakshakar Bhavan, Bandra Kurla Complex, Mumbai - 400051
PAN/GIR No. AGLPK1448D		
Applicant)		Respondent)

Applicant by	Shri Sachin Sarogi Shri Krishna Kumar (SR. DR.)
Respondent by	

सुनवाई की तारीख/Date of Hearing	06.01.2026
घोषणा की तारीख/Date of Pronouncement	17.02.2026

ORDER

PER SANDEEP GOSAIN, JM:

The present MA has been filed by the assessee arising out of ITA No 6428/Mum/2024, order dated 28.05.2025 requesting for rectification of the Tribunal order.

2. I have heard counsel for both the parties, perused the materials placed on record. From the records, I noticed that the appeal filed by the assessee was heard on 06.05.2025 and the same was decided and dismissed on 28.05.2025.

3. Now the assessee had filed this MA on the ground that on the basis of identical facts another appeal of the same assessee for the assessment year 2009-10 was pending adjudication before Coordinate Bench and vide order dated 20.05.2025 the Coordinate Bench of ITAT in assessee's own case for AY 2009-10 in ITA No. 6429/Mum/2024 has remanded the matter to the AO for fresh examination. Whereas the captioned appeal filed by the same assessee has been dismissed.

4. Therefore, it was requested that for the sake of uniformity and consistency the order of the Coordinate Bench ought to have been followed by this bench while adjudicating the present captioned appeal for the AY 2010-11.

5. In this regard I am of the view that the decision of the Coordinate Bench was passed on 20.05.2025 in ITA No. 6429/M/2025, therefore, the said decision ought to have been brought to the notice of this Bench. In the absence of the same, there is no error apparent on the face of the record.

6. However, considering the fact that there were two appeals of the same assessee with identical facts before different Benches, then both the appeals should have been consolidated and heard by the same Bench. I also noticed that no such application for consolidation of the appeals have been made by the assessee before the Appellate Authority.

7. Be that as it may, keeping in view the principles of judicial consistency and judicial discipline I recall the impugned order dated 28.05.2025 in ITA No. 6428/M/2024 and direct the

registry to list the matter before the regular Bench for fresh hearing. And parties be informed accordingly.

8. In the result, MA filed by the assessee is allowed.

Sd/-

**(SANDEEP GOSAIN)
JUDICIAL MEMBER**

Mumbai, Dated: 17.02.2026

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Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,
Mumbai

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS

5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			