

Time-limit to rectify mistake under sec. 154 could go beyond 6 months but on merits; HC considers CBDT's circular

Summary – The High Court of Karnataka in a recent case of Mac Charles (India) Ltd., (the Assessee) held that Assessing Authority can pass order in respect of application under section 154, even after expiry of 6 months on merit in accordance with law

Facts

- The Assessing Authority passed the revised assessment order by allowing deduction under section 80HHD.
- Being dissatisfied with the said deduction, the assessee filed an application for rectification of said order under section 154.
- After lapse of more than six months, the Assessing Authority rejected the same by holding that no further modification was required as the revised order was passed pursuant to the order passed by the Tribunal as well as the First Appellate Authorities.
- Being aggrieved by the said rejection order, the assessee preferred an appeal before the Commissioner (Appeals) contending that the order passed by the Assessing Authority rejecting the application for rectification of mistake was contrary to law in view of non-passing of order on the said application within a period of six months. The First Appellate Authority taking into consideration CBDT Circular No. 14/2001 which allows passing of such order beyond six months, rejected the said appeal.
- On further appeal, the Tribunal rejected the assessee's appeal.
- On appeal to the High Court:

Held

- In the instant case, the Assessing Authority has passed the order under section 154 after a lapse of six months. Under section 154, it is mandatory requirement that the Assessing Authority has to pass the order within a period of six months from the date of receipt of the application. However, in the circular bearing No. 73 dated 7-1-1972 issued by the CBDT it was clarified that if the Assessing Authority do not dispose of the application within the time specified under sub-section 7 of section 154, it may be disposed of by that authority even after expiry of the statutory time limit on merit in accordance with law. Hence, there is no infirmity in the order passed by the authorities below.