

## **ITAT rejected revisional application as all grounds related to order passed by CIT had been properly dealt with**

**Summary – The Lucknow ITAT in a recent case of U.P. Forest Corporation., (the Assessee) held that where assessee filed rectification application on ground that Tribunal had not adjudicated certain grounds which were specifically mentioned, in view of fact that all grounds pertained to order passed under section 263 by Commissioner and those grounds were not only taken into body of order but at same time an elaborate judgment had been passed regarding same, assessee's application deserved to be rejected**

### **Facts**

- The assessee has filed instant miscellaneous applications on the ground that the Tribunal had not adjudicated certain grounds which were specifically mentioned.
- It was undisputed that all the grounds taken by the assessee were with regard to the revisionary jurisdiction undertaken by the Commissioner under section 263.

### **Held**

- It is found that the order of the Tribunal is elaborate, exhaustive, definitive and speaking order. It was the contention of the assessee that certain grounds were not adjudicated upon by the Tribunal. It is found that all the grounds pertained to the order passed under section 263 by the Commissioner and those grounds were not only taken into the body of the order but at the same time an elaborate judgment had been passed regarding the same. When one view had been taken by the Tribunal, it could not be permitted to be reviewed under section 254(2). It has to be seen whether there is any mistake apparent from record or not. Since the Tribunal had adjudicated the issue in the light of the facts available before it, no error as suggested by the assessee, was crept in the order of the Tribunal.
- Moreover, the scope of provisions of section 254(2) is very limited and only those errors which are apparent or arithmetical can only be rectified. The scope of provisions of section 254(2) has been repeatedly examined by the Apex Court and various High Courts and it was held that the Tribunal can rectify only those mistakes which are arithmetical or clerical or apparent in its order. The Tribunal has no jurisdiction to review its own order in the garb of rectification. It was also held that if the Tribunal commits an error of judgment, that error cannot be rectified under the provisions of section 254(2) as the Tribunal is not empowered by the statute to review its own order.
- Therefore, there is no merit in the miscellaneous application of the assessee, as no error apparent in the order of the Tribunal is pointed out. The assessee has tried to dispute the findings of the

Tribunal and seeking a review of the order of the Tribunal which is not permissible under section 254(2) and accordingly the miscellaneous application is rejected.