

Filing rectification application against the rectification order passed by ITAT not allowed: HC

Summary – The High Court of Karnataka in a recent case of Smt. Alpana Bhartia, (the Assessee) held that filing rectification application against the rectification order passed by ITAT is not allowed

Facts

- The assessee was subjected to search proceedings under section 132 and was issued a show-cause notice to furnish confirmation from HSBC, Geneva to prove that the bank account did not belong to her. The assessee failed to furnish any explanation and the Assessing Authority taxed the deposits in the said bank account as additional income in the hands of the assessee.
- The Tribunal confirmed said addition. Thereafter, the assessee filed miscellaneous petition under section 254(2) to rectify the mistake apparent on record. In said petition it was stated that addition of deposit had been made to assessee's income as well as income of husband of the assessee which amounted to double addition.
- The Tribunal finding that substantive addition being made to the husband of the assessee, rectified the double addition and deleted the addition made to assessee's income.
- The revenue filed miscellaneous petition under section 254(2) seeking to rectify the mistake apparent on record of the order. The Tribunal dismissed the said petition holding that the same was not maintainable under section 254(2).

Held

- The HC stated that from a reading of sub-section (2) of section 254, it would be clear that the Tribunal possesses the power to rectify any mistake apparent on the record in the order passed by it under sub-section (1). Once the order under sub-section (2) of section 254 is passed, the said order cannot again be made available for rectification of mistake under section 254(2) of the Act. Repetitive applications under section 254(2) of the Act are not permissible.
- Thus it was held that the Tribunal rightly dismissed the miscellaneous petition filed by the revenue. There is no error or omission in the order passed by the Tribunal.
- No substantial question arises in this appeal. Hence, the appeal is dismissed.