

In case appeal is pending against assessment order, rectification application cannot be denied only giving that reason

Summary – The High Court of Bombay in a recent case of Piramal Investment Opportunities Fund., (the Assessee) held that in case appeal is pending against assessment order, rectification application cannot be denied only giving that reason

Facts

- The assessee case was selected for scrutiny assessment and was completed by the Assistant Commissioner.
- The assessee filed an appeal before the Commissioner (Appeals) on the ground that the Assessing Officer did not give credit of advance tax.
- The assessee also made an application under section 154 to the Assistant Commissioner for rectification which was rejected stating that assessee did not inform that an appeal was filed on the same issue for which rectification was sought.
- On writ petition before the High Court :

Held

- The HC held that Section 154(1A) provides that where any matter has been considered and decided in any proceeding by way of appeal or revision, contained in any law for the time being in force, such order shall not be amended.
- Thus, as per section 154, there is no restriction in the power of amendment if an appeal or revision is merely pending. The rejection of the rectification application on this ground was unwarranted.
- The Writ Petition succeeds. The impugned order is to be quashed and set aside.