IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.11.2025

Pronounced on : 27.11.2025

CORAM

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

TCA Nos.319 of 2016 and 538 of 2021

M/s.Devaraj & Others,
688, Trunk Road,
Ponnamalle,
Chennai - 600 056. .. Appellant
[in both TCAs]

Vs

The Income Tax Officer,
Company Ward-I,
1st Floor, 63, Race Course Road,
Coimbatore - 641 018. .. Respondent
[in both TCAs]

Prayer in TCA No.319 of 2016: Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 19.06.2015 passed in M.P.No.175/Mds/2014 on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai.

Prayer in TCA No.538 of 2021: Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 26.03.2013 passed in M.P.No.31/Mds/2012 on the file of Income Tax Appellate Tribunal, 'A' Bench, Chennai.

For Appellant [in both TCAs]	:	Mr.A.S.Sriraman for Mr.S.Sridhar
For Respondent [in both TCAs]	:	Mrs.V.Pushpa Senior Standing Counsel

COMMON JUDGMENT

(Judgment of the Court was delivered by G.Arul Murugan, J.)

TCA No.538 of 2021 is filed by the assessee challenging the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai (hereinafter referred to as "ITAT") dated 26.03.2013 in M.P.No.31/Mds/2012 under section 254(2) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"]. TCA No.319 of 2016 is also filed by the assessee challenging the order of ITAT, dated 19.06.2015 in M.P.No.175/Mds/2014 under section 254(2) of the Act, seeking to reconsider the order passed by ITAT dated 26.03.2013.

2. The issue involves several rectification proceedings initiated by both the revenue and the assessee, creating much confusions. For better appreciation and understanding, short facts are culled out as under:-

2.1. A scheme to provide dhotis and sarees for the poor was formulated by the Tamil Nadu State Government. Tamil Nadu Textile Corporation (TNTC), a state subsidiary, was entrusted with the responsibility of procuring them. A large scam erupted in the scheme, which led to a search being conducted by the Income Tax Department in the premises of TNTC. During the search proceedings, details of various third parties, including the appellant, pertaining to some transactions were found out, which resulted in the initiation of proceedings under Section 158BD of the Act. Pursuant to the notice issued to the assessee, a return of income was filed on 21.02.1997 declaring undisclosed income of Rs.1,23,01,430/-. A revised return was filed on 11.08.1997 admitting the income of Rs.1,44,59,230/-. The assessment was completed under section 143(3), fixing a total undisclosed income of Rs.9,25,52,290/-.

2.2. The assessee filed appeal before the ITAT challenging the block assessment and by order dated 28.01.2005, ITAT set aside the block assessment and remanded the case back to the assessing authority. Pursuant to the remand, the Assessing Officer [in short "AO"] completed the assessment under Section 143(3) on 27.03.2006, fixing a total undisclosed income of Rs.6,17,00,860/-.

2.3. The AO held that the Association of Persons 'AOP' consisted of only three individuals, including the appellant, who were doing business independently, either in their names or other individuals. The block assessment was for the period from 1987-88 to 1996-97. The AO allowed 1/3rd of the income to be deducted towards expenses observing that since the assessee was involved in the business of supplying uniform cloth, he could not have earned 120% profit. Therefore, a sum equal to 1/3rd of the total income computed in the original assessment order was allowed as expenditure and thereby fixed a total income at Rs.6,17,00,860/-.

2.4. The block assessment made by the AO in the remand was again challenged by the assessee before the ITAT. The Tribunal, by

order dated 21.09.2011, on finding that since the transactions of the assessee were clandestine and unlawful, held that it is not possible to compare the case of the assessee to that of a normal business carried on. The profit rate of 2.5% disclosed by the assessee might be acceptable only to a wholesale dealer carrying on the business in a lawful manner. The Tribunal considering the 1/3rd deduction towards expenditure being allowed and the income determined Rs.6,17,00,860/- works out to a profit ratio of 8%, however, came to the conclusion that the profit percentage of 8% may be applicable for an assessee who deals in general textiles, but when the appellant/assessee is a supplier of uniform clothes in a government scheme it may be excessive.

2.5. The Tribunal thereby allowed the appeal in part by modifying the rate of profit from 8% to 5%. In effect, the Tribunal, on a detailed consideration of the issues on merits, had concluded that the assessment order, by giving a deduction of 1/3rd of the amount towards expenditure, which works out to a profit ratio of 8%, would be excessive in view of the facts of the present case and had thereby granted the relief to the extent that the profit ratio would be calculated

at 5%.

2.6. The assessee filed a rectification application in M.A.No.1/(Mds)/2012 under section 254(2) seeking a clarification as to whether the 5% profit ratio as directed by the Tribunal would be adopted on the gross turnover or not. The Tribunal, by order dated 09.03.2012, disposed of the application by clarifying that 5% profit ratio suggested by the Tribunal would obviously relate to gross turnover. Though it was only a clarification that the profit ratio would be on the gross turnover, still the revenue filed an appeal and challenged the same in T.C.A.No.251 of 2013.

2.7. Thereafter, the revenue also filed a rectification petition in M.P.No.31(Mds)/2012 under section 254(2). The Tribunal reappraised the materials and observed that on an erroneous presumption that the income in the remand assessment by the AO has been determined by applying gross profit rate of 8%, whereas, the AO has reduced the original income by 1/3rd in a lump sum and had not adopted different rates for different items, concluded that the Tribunal has overruled crucial points and therefore the mistake has to be rectified.

2.8. On finding so, the Tribunal, by order dated 26.03.2013, determined the estimated income in the hands of the assessee afresh and modified the income of the assessee at 50% of the income determined in the original assessment. In effect, when the AO had granted 1/3rd deduction in the gross income towards expenses, which was originally modified by the Tribunal by reducing the profit ratio from 8% to 5%, in the rectification order the Tribunal determined the income at 50% of the original assessment. Though the revenue succeeded, still challenging the rectification order dated 26.03.2013, the revenue filed appeal in TCA No.810 of 2013 and assessee also filed TCA No.538 of 2021.

2.9. The assessee further filed a rectification petition under section 254(2) in M.P.No.175/Mds/2014 praying for reconsideration of the order dated 26.03.2013. The Tribunal, by order dated 19.06.2015, dismissed the petition holding that the jurisdiction of the Tribunal under section 254(2) is only to rectify an error apparent on the face of the record. Challenging the order dated 19.06.2015 of the ITAT, the assessee preferred TCA No.319 of 2016.

2.10. The appeals filed by the revenue in TCA No.251 of 2013 and TCA No.810 of 2013, challenging the two rectification orders dated 09.03.2012 and 26.03.2013 came to be dismissed by the order of this Court dated 29.06.2015, on the ground that since the main order of ITAT dated 21.09.2011 itself is challenged by the revenue in TCA No.114 of 2015, the orders in the Miscellaneous Petitions had become infructuous.

2.11. It is to be noted that TCA No.114 of 2015 filed by the revenue challenging the final order of ITAT dated 21.09.2011, which was admitted and pending, was withdrawn by the revenue on account of low tax effect and as such, TCA No.114 of 2015 was dismissed by this Court on 27.08.2019. Thereby, the present two appeals filed by the assessee alone survive for consideration.

3. Tax Appeals have been admitted, by framing the following substantial questions of law;

TCA No.319 of 2016:-

"(i) Whether the Appellate Tribunal is correct in law in not interfering/not accepting the plea to restore the original

order passed by them even after the acceptance of limited scope of the power vested in Section 254(2) of the Act, which power was admittedly exceeded in the order passed earlier in M.P.No.31 of 2012 dated 26.03.2013 in reviewing the original order dated 21.09.2011 ?

(ii) Whether the Appellate Tribunal is correct in law in interfering with the original order passed by them in the rectification proceedings initiated by the Revenue under Section 254(2) of the Act, which interference resulted in the enhancement of the taxable total income as well as challenged even by the Revenue in the pending tax case appeal in T.C.A.No.114 of 2015 ? and

(iii) Whether the Appellate Tribunal is correct in law in passing the rectification order even though the review of the original order within the scope of Section 254(2) of the Act is not permissible legally as well as admittedly ?"

TCA No.538 of 2021:-

"(i) Whether the Appellate Tribunal is correct in law in interfering with the original order passed by them in the rectification proceedings initiated by the Revenue under Section 254(2) of the Act, which interference resulted in

the enhancement of the taxable total income as well as challenged even by the Revenue in the pending tax case appeal in T.C.A.No.114 of 2015 ? and

(ii) Whether the Appellate Tribunal is correct in law in passing the rectification order even though the review of the original order within the scope of Section 254(2) of the Act is not permissible legally as well as admittedly ?"

4. Heard Mr.A.S.Sriraman, learned counsel for the assessee and Mrs.V.Pushpa, learned Senior Standing Counsel for the Income Tax Department.

5. The point that arise for consideration in these appeals is as to whether the Tribunal was right in modifying the orders passed, by exercising the power under section 254(2) of the Act.

6. For easy reference, Section 254(2) of the Act, is extracted hereunder:-

*"**254(2)**. The Appellate Tribunal may, at any time within [six months from the end of the month in which the order was passed], with a view to rectifying any mistake apparent from the record, amend any order passed by it*

under sub-section (1), and shall make such amendment if the mistake is brought to its notice by the assessee or the [Assessing] Officer:

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard:

[Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees.]

....."

7. In exercise of the powers conferred on the Tribunal under section 254(2), the Tribunal may amend any order passed under section 254(1) only to the limited extent of rectifying any mistake that is apparent on the face of the record. The Tribunal cannot sit in appeal over its own decision while exercising the power under section 254(2) and any error which is apparent on the face of the record that does not require a detailed reasoning is alone to be looked into and corrected.

8. The Hon'ble Supreme Court considered the scope of the Tribunal under Section 254(2), in the case of ***Commissioner of Income-tax Vs. Reliance Telecom Ltd.*** reported in ***[2021] 133 taxmann.com 41*** and held that the powers of Tribunal under section 254(2) of the Act are akin to Order 47 Rule 1 of CPC. The Tribunal, while exercising the power under section 254(2) of the act, cannot re-visit its earlier order by going into the merits but is confined only to rectify or correct any mistake apparent on the record. An erroneous order can only be challenged in the appeal and the same cannot be considered in exercising the power of review.

9. The relevant portion of the abovesaid decision is extracted hereunder:-

> *"**3.2.** Having gone through both the orders passed by the ITAT, we are of the opinion that the order passed by the ITAT dated 18-11-2016 recalling its earlier order dated 6-9-2013 is beyond the scope and ambit of the powers under Section 254(2) of the Act. While allowing the application under Section 254(2) of the Act and recalling its earlier order dated 6-9-2013, it appears that the ITAT has re-*

heard the entire appeal on merits as if the ITAT was deciding the appeal against the order passed by the C.I.T. In exercise of powers under Section 254(2) of the Act, the Appellate Tribunal may amend any order passed by it under sub-section (1) of Section 254 of the Act with a view to rectifying any mistake apparent from the record only. Therefore, the powers under Section 254(2) of the Act are akin to Order XLVII Rule 1 CPC. While considering the application under Section 254(2) of the Act, the Appellate Tribunal is not required to re-visit its earlier order and to go into detail on merits. The powers under Section 254(2) of the Act are only to rectify/correct any mistake apparent from the record.

***4**. In the present case, a detailed order was passed by the ITAT when it passed an order on 6-9-2013, by which the ITAT held in favour of the Revenue. Therefore, the said order could not have been recalled by the Appellate Tribunal in exercise of powers under Section 254(2) of the Act. If the assessee was of the opinion that the order passed by the ITAT was erroneous, either on facts or in law, in that case, the only remedy available to the Assessee was to prefer the appeal before the High Court, which as such was already filed by the Assessee before the High Court, which the Assessee withdrew after the order passed by the ITAT dated 18-11-2016 recalling its earlier*

order dated 6-9-2013. Therefore, as such, the order passed by the ITAT recalling its earlier order dated 6-9-2013 which has been passed in exercise of powers under Section 254(2) of the Act is beyond the scope and ambit of the powers of the Appellate Tribunal conferred under Section 254(2) of the Act. Therefore, the order passed by the ITAT dated 18-11-2016 recalling its earlier order dated 6-9-2013 is unsustainable, which ought to have been set aside by the High Court."

10. Further, a Division Bench of this Court in the case of ***Express Newspapers Ltd. Vs. Deputy Commissioner of Income-tax*** reported in ***(2010) 320 ITR 12 (Madras)***, considered the scope of the Tribunal while exercising the power under section 254(2), by considering several decisions rendered by the Hon'ble Supreme Court and the High Courts. The court held that amendment of an order does not mean obliteration of the order originally passed and its substitution by a new order. Mere existence of a mistake or error would not *per se* render the order amenable for rectification, but such a mistake must be one which must be manifest on the face of the record.

11. The relevant portion of the decision reads as under:-

*"**9.** The scope and amplitude of section 254(2) and*

the analogous provision of section 154 of the Act have been considered by a catena of decisions of the Apex Court and other High Courts. The uniform opinion of the Courts of superior jurisdiction is that a patent, manifest and self-evident error which does not require elaborate discussion of evidence or argument to establish it, can be said to be an error apparent on the face of the record and can be corrected under section 254(2). An error cannot be said to be apparent on the face of the record if one has to travel beyond the record to see whether the judgment is correct or not. An error apparent on the record means an error which strikes one on mere looking and does not need a long drawn out process of reasoning on points on which there may be conceivably two opinions. The error should not require any extraneous matter to show its incorrectness. To put it differently, it should be so manifest and clear that no court would permit it to remain on record. If the view accepted by the court in the original judgment is one of possible views, the case cannot be said to be covered by an error apparent on the face of the record. Section 254(2) specifically empowers the Tribunal to amend at any time within four years from the date of an order, any order passed by it under section 254(1) with a view to rectify any mistake apparent from the record either suo motu or on an application. In order to attract the application of section 254(2), the mistake must exist

and the same must be apparent from the record. The expression "mistake apparent from the records" contained in sections 154 and 254(2) has wider content than the expression "error apparent on the face of the record" occurring in Order 47 Rule 1 of CPC. The restrictions on the power of review under Order 47 Rule 1 of CPC do not hold good in the cases of sections 254(2) and 154 of the Act. Section 254(2) does not confer power on the Tribunal to review its earlier order. Under the grab of rectification of mistake it is not possible for a party to take further chance of re-arguing the appeal already decided. What can be rectified under section 254(2) is a mistake which is apparent and patent. The mistake has to be such for which no elaborate reasons or enquiry is necessary. Where two opinions are possible then it cannot be said to be a mistake apparent on the record. When prejudice resulting from an order is attributable to the Tribunal's mistake, error or omission, it is its bounden duty to set it right. The purpose behind the enactment of section 254(2) of the Act to amend any order passed under sub-section (1), if any mistake apparent from the record is brought to the notice of the Tribunal, is based on the fundamental principle that no party appearing before the Tribunal, be it an assessee or the Department, should suffer on account of any mistake committed by the Tribunal. This fundamental principle has nothing to do with the inherent power of the

Tribunal. If prejudice has resulted to the party, which prejudice is attributable to the Tribunal's mistake, error or omission and which error is a manifest error, then the Tribunal would be justified in rectifying its mistake. Rectification can be made only when a glaring mistake of fact or law committed by the officer passing the order becomes apparent from the record. The rectification is not possible if the question is debatable. A point which was not examined on facts or in law cannot be dealt with as a mistake apparent from the record. No error can be said to be apparent on the face of the record if it is not manifest or self evident and requires an examination or argument to establish it. Where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, is a clear case of error apparent on the face of the record. Vide Asst. CIT v. Saurashtra Kutch Stock Exchange Ltd. [2008] 305 ITR 227 (SC), Honda Siel Power Products Ltd. v. CIT [2007] 295 ITR 466 (SC), Hari Vishnu Kamath v. Syed Ahmad Ishaque [1955] 1 SCR 1104, CIT v. Keshri Metal (P.) Ltd. [1999] 237 ITR 165 (SC), Deva Metal Power (P.) Ltd. v. CIT 2008 (2) SCC 439, CIT v. Hero Cycles (P.) Ltd. [1997] 228 ITR 463 (SC), Satyanarayan Laxminarayan Hegde v. Mallik Arjun Bhavanappa Tirumale [1960] 1 SCR 890, Thungabhadra Industries Ltd. v. Government of

Andhra Pradesh Rep. by the Dy. CCT AIR 1964 SC 1372, Batuk K. Viyas v. Surat Borough Municipality ILR 1953 Bom. 191, Umma Salma (K.T.M.S.) v. CIT [1983] 144 ITR 890 (Mad), Kil Kotagiri Tea & Coffee Estates Co. Ltd. v. ITAT [1988] 174 ITR 579 (Ker), CIT v. R.Chelladurai [1979] 118 ITR 108 (Mad.), State of Tamil Nadu v. Thakorebhai & Bros. [1983] 52 STC 104 (Mad.), Jainarain Jeevraj v. CIT [1980] 121 ITR 358 (Raj.), CIT v. Vardhaman Spg. [1997] 226 ITR 296 (Punj. &Har.), Bata India Ltd. v. Dy. CIT [1996] 217 ITR 871 (Cal.) and CIT v. Prahlad Rai Todi [2001] 251 ITR 833 (Gau.).

***10**. From the various judgments of the Supreme Court above referred to and other High Courts, it is clear that the Tribunal's power under section 254(2) is not to review its earlier order but only to amend it with a view to rectify any mistake apparent from the record. What can be termed as "mistake apparent ?". "Mistake" in general means to take or understand wrongly or inaccurately; to make an error in interpreting; it is an error; a fault, a misunderstanding, a misconception. Mistake in taxation laws has a special significance. It is mostly subjective and the dividing line is thin and indiscernible. "Apparent" means visible, capable of being seen, easily seen, obvious plain, open to view, evident, appears, appearing as real and true, conspicuous, manifest, seeming. The plain*

meaning of the word "apparent" is that it must be something which appears to be ex-facie and incapable of argument and debate. If such a "mistake apparent on the face of record" is brought to the notice, section 254(2) empowers the Tribunal to amend the order passed under section 254(1). Amendment of an order-does not mean obliteration of the order originally passed and its substitution by a new order. What is mistake apparent on the face of the record or where does a mistake cease to be mere mistake, and become mistake apparent on the face of the record is rather difficult to define precisely, scientifically and with certainty. An element of indefiniteness inherent in its very nature and it must be discernible from the facts of each case by judiciously trained mind. Mere existence of a mistake or error would not per se render the order amenable for rectification, but such a mistake must be one which must be manifest on the face of the record."

12. In view of the above, it is clear that the Tribunal, while exercising the power of rectification under section 254(2), does not sit in appeal over its own order and further, the scope of rectification is not an appeal in disguise. An erroneous order can only be challenged before the appellate court and it cannot be a subject matter of rectification, as the Tribunal is not exercising the appellate jurisdiction

while considering the rectification petition under section 254(2).

13. When the power under section 254(2) is akin to Order 47 Rule 1 of CPC, the scope and ambit of rectification/review could be only within the contours provided under the provision. When the provision only allows for rectification for any errors apparent on the face of the record, the mistake should be discernible on the face of the record without requiring any elaborate enquiry or reasoning. In the garb of rectification, the issue cannot be readjudicated and a fresh order cannot be passed effacing the original order, which is clearly impermissible.

14. In the instant case, pursuant to a remand, the block assessment order came to be passed under section 143(3) on 27.03.2006, fixing an undisclosed income of Rs.6,17,00,860/-. The AO concluded that only a realistic estimate of net profit could be resorted to and an appropriate allowance of expenditure could be given based on the preponderance of probabilities. The assessee not being a regular trader, the likely realisation of profits higher than the normal levels cannot be ruled out. In such circumstances, the AO came to the conclusion that the assessee could not have earned 120% profit on the

sale of uniform cloth, had as such allowed 1/3rd of the total income computed in the original assessment order towards probable expenses. Thereby, a sum of Rs.3,08,50,430/- was allowed as expenses towards the total income of the original assessment at Rs.9,25,51,290/- and the income was estimated at Rs.6,17,00,860/-.

15. On appeal by the assessee, ITAT had considered the appeal on merits. The Tribunal rejected the claim of the assessee that the profit rate of 2.5% as disclosed by similar wholesale dealers could be considered. The Tribunal held that since the accounts of the assessee was not credible and were clandestine and involved unlawful business, the 2.5% profit ratio as suggested cannot be accepted. The Tribunal took note of the fact that the AO had admitted that the profit ratio of 120% adopted in the original assessment was excessive and the AO granted deduction of 1/3rd towards the expenditure.

16. The income determined by the AO in the remand assessment worked out to a profit rate of 8%. The Tribunal came to the conclusion that in the normal case of an assessee dealing in general textiles, the profit percentage of 8% could be reasonable, but however, since the appellant/assessee was mainly dealing in supplying uniform clothes

under the government scheme, the Tribunal concluded that 8% profit rate could be excessive and partly allowed the appeal and modified the profit ratio from 8% to 5%.

17. After the final orders were passed by the Tribunal on 21.09.2011, three rectification applications came to be filed, two by the assessee and one by the revenue. In the first rectification application filed by the assessee, the Tribunal, by order dated 09.03.2012, only clarified that 5% profit rate directed by the Tribunal was on the gross turnover, which is based on the assessment order. The Tribunal was within its jurisdiction to make such a clarification in the rectification proceedings, which did not tinker with any portion of the order. However, in the second rectification petition filed by the revenue in M.P.No.31(Mds)/2012, the Tribunal, by order dated 26.03.2013, allowed the rectification petition by reappraising the materials that had already been considered in the final order dated 21.09.2011.

18. The Tribunal, on reappreciation came to the conclusion that the earlier decision on 21.09.2011 was a mistake and a different

approach ought to have been taken. The Tribunal records that in view of the crucial point having been overlooked by the Tribunal, they are duty bound to rectify the mistake and as such, the direction by fixing the profit rate at 5% is recalled and vacated. By doing so, the Tribunal proceeded to determine the estimated income in the hands of the assessee afresh. Completely effacing the order dated 21.09.2011, the Tribunal concluded that 1/3rd deduction given by the AO in the assessment order was not justifiable and therefore, modified the income of the assessee at 50% of the income determined in the original assessment.

19. In our considered opinion, the rectification order dated 26.03.2013 by ITAT is erroneous, perverse and clearly exceeding its jurisdiction. In fact, the Tribunal, while considering the petition under section 254(2), had exercised the power of the appellate jurisdiction, which is impermissible and the order of the Tribunal is patently illegal and beyond its powers conferred under section 254(2).

20. When once the Tribunal had partly allowed the appeal by order dated 21.09.2011 and had directed the adoption of 5% profit ratio by modifying the assessment order, the Tribunal was not within

its power to readjudicate the issues. The rectification order dated 26.03.2013 being perverse and in excess of the jurisdiction is unsustainable and it is accordingly set aside.

21. Insofar as the third rectification petition filed by the assessee in M.P.No.175/Mds/2014, seeks for reconsideration of the order dated 26.03.2013, the same was rejected by the Tribunal, which is challenged in T.C.A.No.319 of 2016. In view of the above conclusion setting aside the order dated 26.03.2013, nothing remains to be decided in TCA No.319 of 2016. However, it is surprising to note that while dismissing the rectification petition by the assessee in seeking to reconsider the order dated 26.03.2013, the Tribunal had held that it does not have power to review its earlier order under section 254(2) of the Act and the jurisdiction of the Tribunal is restricted only to rectify the error which is apparent on the face of the record. The Tribunal concluded that the issue raised by the assessee could be examined only by an appellate court by exercising the jurisdiction under section 260A of the act.

22. In view of the clear finding given by the Tribunal in dismissing the rectification petition, the same procedure and logic

ought to have been applied to the rectification petition filed by the revenue. But the Tribunal proceeded to reappraise the issue on merits and passed a fresh order recalling the earlier order.

23. In view of the conclusions arrived at in setting aside the rectification order dated 26.03.2013, the order dated 21.09.2011 passed by ITAT, is ***restored***. The appeal filed by the revenue challenging the order dated 21.09.2011 in TCA No.114 of 2015 having been dismissed by this Court on 27.08.2019, in view of the withdrawal of the appeal by the revenue on the ground of low tax effect, the order of the Tribunal dated 21.09.2011 ***attains finality***.

24. In view of the above deliberations, **the substantial questions of law in TCA No.538 of 2021 are answered in favour of the assessee and against the revenue**. Accordingly, TCA No.538 of 2021 stands ***allowed*** and TCA No.319 of 2016 stands ***dismissed.*** There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ.) (G.ARUL MURUGAN, J.)
27.11.2025

Index : Yes
Neutral Citation : Yes

sri

To

1.The Assistant Registrar,
Income Tax Appellate Tribunal,
Chennai.

2.The Income Tax Officer,
Company Ward-I,
1st Floor, 63, Race Course Road,
Coimbatore - 641 018.

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

sri

Pre-Delivery Common Judgment made in
TCA Nos.319 of 2016 and 538 of 2021

27.11.2025