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HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW

INCOME TAX APPEAL No. – 11 of 2026

Abusaad Ahmad …..Appellant(s)

Versus

The Assistant Commissioner Of Income Tax Central Circle – 1 Lko …..Respondents(s)

Counsel for Appellant(s) : Syed Aftab Ahmad

Counsel for Respondent(s) : Neerav Chitravanshi

Along with:

1. Income Tax Appeal No. 12 of 2026:

Abusaad Ahmad

Versus

The Assistant Commissioner of Income Tax Central Circle - 1 Lko.

Court No. – 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

ABDHESH KUMAR CHAUDHARY, J.: Heard Mr. Syed Aftab Ahmad, learned counsel appearing on behalf of the Appellant and Mr. Neerav Chitravanshi, learned counsel appearing on behalf of the respondent.

2. The present Appeals have been filed under section 260A of the Income Tax Act, 1961 (hereinafter to be referred as the 'said Act') against the order dated 30.10.2025 passed by the Income Tax Appellate Tribunal, Lucknow Bench "A", Lucknow (hereinafter to be referred as the "Tribunal") in Miscellaneous Application Nos. 16 & 17 LKW/2024 (*arising out of ITA Nos. 365& 366/LKW/2018*).

3. The facts relevant for the disposal of the present Appeals lie in a narrow compass. The Appellant as an Income Tax Assesse and being aggrieved by an order passed by the Commissioner of Income Tax (Appeals) preferred statutory Appeals before the Tribunal in terms of Section 253(1)(a) of the Act. The said Appeals were filed along with an Application seeking condonation of delay of 867 days in filing the said Appeals on the ground that the order of the CIT(Appeal) was received by his driver and was allegedly kept in the garage and not informed to him. Apparently, the Tribunal did not find the ground to be sufficient and as such dismissed the statutory Appeals of the Appellant on the ground of Limitation vide an order dated 03.07.2024 passed in ITA Nos. 365 & 366 LKW/2018 .

4. The Appellant against the order dated 03.07.2024 preferred the aforesaid Miscellaneous Application Nos. 16 & 17/LKW/2024 under Section 254(2) of the Act seeking review of the said order mainly on the ground that the affidavit filed by the driver admitting his fault was not considered by the Tribunal.

5. The Tribunal while considering the said review Applications of the Appellant arrived at a finding that there is no mistake apparent on face of the record and as such dismissed the said miscellaneous Applications for review vide the impugned order dated 30.10.2025. The conclusion of the Tribunal may be delineated as herein below:

> ***"06.*** *We have heard both the parties and have also perused the material on record. A perusal of the common order dated 03.07.2024 in ITA Nos. 365 & 366/LKW/2018 shows that admittedly both the appeals were filed after a delay of 867 days each from the expiry of statutory period prescribed under section 253(3) of the Income Tax Act, 1961. In the order, the Bench had proceeded to examine whether there was sufficiency of reasons behind the delay in filing the said appeals. A further perusal of the above said order of the Tribunal would show that it was the averment of the assessee in the applications for condonation of delay that copies of the Ld. First Appellate Authority's orders were received immediately by the Driver of the assessee who had kept them in the garage and it was only during the course of assessment of the subsequent assessment year that it came to the knowledge of the assessee that the appeals against the impugned orders were yet to be filed. Thus, as per the assessee, the delay was attributable to the gross negligence on the part of the Driver. Thereafter, the Bench observed in the above said order that the averments in the delay condonation applications were not corroborated by any independent evidence and that the Bench also did not find the stated reason to be sufficient for explaining the delay in filing the appeals. In nutshell, the explanations in the applications were not found to be plausible and,*

thus, the Bench reached a conclusion that the assessee had failed to demonstrate that there was any sufficient cause or sufficient reason behind the inordinate delay of 867 days each in filing the captioned appeals. Thus, having gone through the above said order, we are of the considered view that the appeals of the assessee were dismissed after giving a thoughtful consideration to the applications for condonation of delay and the appeals were dismissed after having arrived at a considered opinion that the delay condonation petitions could not satisfactorily explain the delay. Accordingly, we find that there is no mistake apparent on record in the order dated 03.07.2024 passed in the two appeals, namely ITA Nos.365 & 366/LKW/2024 and we dismiss both the Miscellaneous Applications.

07. *In the final result, both the Miscellaneous Applications filed by the assessee stand dismissed."*

6. In the aforesaid background, the present Appeals have been filed by the Appellant proposing the following substantial question of law:

"1. *Whether the Tribunal erred in law in dismissing the Miscellaneous Applications under Section 254(2) without considering that non-exercise of jurisdiction vested under Section 131 read with Section 255(6) amounts to a mistake apparent on record?*

2. *Whether the Tribunal was justified in rejecting the affidavit filed in support of the delay condonation application without summoning or cross-examining the deponent, in view of the law laid down by the Hon'ble Supreme Court in Mehta Parikh & Co.?*

3. *Whether the Tribunal failed to appreciate that procedural delay caused by counsel or employee negligence constitutes "sufficient cause" in light of settled principles governing condonation of delay?*

4. *Whether dismissal of appeal on technical grounds of limitation, without adjudication on merits, defeats the principles of natural justice?*

5. *Whether the Tribunal misdirected itself in law in holding that no mistake apparent on the face of*

*record existed, despite failure to consider binding precedent?***"**

7. The learned Counsel for the Appellant has submitted that the review Applications of the Appellant could not have been dismissed by the Tribunal as the said application highlighted the failure on the part of the Tribunal to exercise powers under Section 131 r/w Section 255(6) of the Act. He has also submitted that the contents of the driver's affidavit in support of the applications for condonation of delay had been erroneously rejected by the Tribunal on flimsy and unconvincing grounds. According to him, since the driver was never called for cross-examination nor the Appellant was called upon to produce any documentary evidence in support of the affidavit sworn by the driver, the Tribunal was bound to accept the driver's affidavit to be true and as such should have condoned the delay of 867 days. Thus, according to the learned counsel a mistake apparent on record had crept in the order and the same was to be amended & rectified. He also relied on the judgment in the case of ***Mehta Parikh and Company Vs. Commissioner of Income Tax, Bombay,*** reported in ***(1956) 2 SCC 100;*** to buttress his aforesaid submission.

8. *Per contra,* the learned Counsel for the Respondent/Department had submitted that the present Appeals have been filed by the Appellant against the review order only and evidently no Appeals have been filed against the main judgment dated 03.07.2024

passed by the Tribunal in the Income Tax Appeals. According to the learned Counsel the arguments addressed by the Appellant are actually on merits, which could had been maintainable against the main order dated 03.07.2024 but not against the dismissal of the review Applications. He has further submitted that the scope of the present Appeals is limited to the challenge laid by the Appellant to the dismissal of the review Applications and the appellant should not be allowed to argue any point related to or touching the merits of the main Appeals, which is not a subject matter in these Appeals. He has submitted that the Tribunal has rightly held that no mistake apparent has crept in the order and as such has accordingly rejected the review Applications of the Appellant.

9. Having heard the learned counsel for both the parties and given an anxious thought to the issues raised in the present Appeals, this Court with the consent of the parties has heard their arguments for disposal of the present Appeals at the admission stage itself.

10. Admittedly, no Appeal has been filed by the Appellant against order dated 03.07.2024 passed by the Tribunal in ITA Nos. 365 & 366/LKW/2018 and merely the order on review dated 30.10.2025 has been sought to be challenged in the present Appeals. Thus, the scope of this Court in the present Appeals is circumscribed and is only to the extent of examining the impugned order dated 30.10.2025 passed by the Tribunal dismissing the

review Applications of the Appellant field under section 254(2) of the Act.

11. For the sake of convenience, section 254(2) of the Income Tax Act is being quoted herein below:

> "***254. (2) Orders of Appellate Tribunal.—***
>
> ***(1)*** *[*******]*
>
> ***(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.]*
>
> *[**(2-A)** In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) 4480[or sub-section (2)] [* * *] of Section 253:*
>
> *[Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of Section 253, for a period not exceeding one hundred and eighty days from the date of such order 4483[subject to the condition that the assessee deposits not less than twenty per cent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof] and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:*
>
> *[Provided further that no extension of stay shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as*

specified in the order of stay, unless the assessee makes an application and has complied with the condition referred to in the first proviso and the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee, so however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed.]

[Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.]]

***(2-B)** The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.]"*

12. A facial look at Section 254(2) of the Act, which deals with the power of rectification by the Tribunal, makes it amply clear that the word mistake is accompanied by apparent. The word mistake is qualified by the word apparent and *arguendo,* it is not all mistakes, which have crept in any order of the Tribunal that can be rectified in terms of section 254(2) of the Act, until and unless the mistake is apparent. According to this Court, in order to attract the application under Section 254(2), a mistake must exist and the same must be apparent from the record.

13. In ordinary parlance '*Mistake*' means 'to be wrong about something' or to take or understand wrongly or inaccurately. According to Black's Law Dictionary, a mistake is defined as "An error, misconception, or misunderstanding; an erroneous belief". It represents a

belief not in accord with the facts, often used to signify that a person did not mean the same thing or formed inaccurate conclusions about the subject matter. Similarly, the word ‘Apparent' means visible; capable of being easily seen, obvious etc. According to Black's Law Dictionary, apparent means that which is obvious, evident, manifest, or that which appears or has been made manifest. In legal context, it often describes matters that are clear from the record or facts.

14. A conjoint reading of both terms “mistake” and “apparent” would mean that those mistakes which can be rectified under section 254(2) are ones that are patent, obvious and whose discovery is not dependent on argument or elaboration. As a corollary, it would mean that where an error is far from self-evident or for which elaborate discussion and argument is needed, it ceases to be an apparent error or a mistake apparent and as such cannot be a subject matter of review within the meaning of Section 254(2) of the Income Tax Act. As observed by the Supreme Court in ***Master Construction Co. (P) Ltd. Vs. State of Orissa*** reported in ***[1966] 17 STC 360: AIR 1966 SC 1047;*** an error which is apparent on the face of the record should be one which is not an error which depends for its discovery on elaborate arguments on questions of fact or law. A similar view was also expressed in ***Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale,*** reported in ***1959 SCC OnLine SC 10*** **:** ***AIR 1960 SC 137***.

15. It is to be noted that the language used in Order 47, Rule 1 of the Code of Civil Procedure, 1908 relating to "review" is different from the language used in Section 254(2) of the Act. No doubt, mistake is an ordinary word, but in taxation laws, it has a special significance. It is not an arithmetical or clerical error alone that comes within its purview. It comprehends errors which, after a judicious probe into the record from which it is supposed to emanate, are discerned. The word 'mistake' is inherently indefinite in scope, as what may be a mistake for one may not be one for another. It is mostly subjective and the dividing line is thin, blurred and at times indiscernible. It is something which a duly and judiciously instructed mind can find out from the record. In order to attract the power to rectify under section 254(2) of the Act it is not sufficient if there is merely a mistake in the orders sought to be rectified. The mistake to be rectified must be one apparent from the record. A decision on the debatable point of law or undisputed question of fact is not a mistake apparent from the record. The plain meaning of the word 'apparent' is that it must be something which appears to be so *ex facie* and it is incapable of argument or debate. It therefore, follows that a decision on a debatable point of law or fact or failure to apply the law or a judgment to a set of facts cannot be corrected by way of rectification.

16. According to this Court, the scope and ambit of the application of Section 254(2) is limited and narrow. It is restricted to rectification of mistakes apparent from the record. Only glaring and any mistake apparent on the

face of the record and/or order alone, can be rectified and hence anything debatable cannot be a subject matter of rectification.

17. As far as the facts of the present Appeals are concerned, this Court finds that the hinge of argument of the learned counsel for the Appellant is premised on the fact that the Tribunal had failed to exercise its power under section 131 r/w Section 255(6) of the Act, which relates to the investigative powers vested with the Tribunal relating to discovery & inspection, examination, production of documents etc. in terms of the code of civil procedure, which according to this Court is a debatable point and has to be examined & determined keeping in mind the present facts & circumstances as well as the material available on record. The application or non-application of these applications by the Tribunal to the given set of facts is something which is debatable and not a mistake apparent, amenable to the rectification power of the Tribunal. The failure cannot be termed to be obvious and is squarely dependent on argument and elaboration of facts, which cannot be gone into under the provisions of section 254(2) of the Act. As far as the non-consideration of the driver’s affidavit relating to condonation of delay of 867 days, the Tribunal has already taken a view one way or the other and as such a challenge to the same could not be by way of a review Application as again it is not a mistake apparent from the record. Similarly, the non-appreciation of judgment in *Mehta Parikh* (supra) cannot be a mistake apparent to be rectifiable under the provisions of Section 254(2) of

the Act as the applicability or otherwise of the said judgment would depend on the facts & circumstances of the present case and which is a debatable point, for a decision is an authority for what it specifically decides and not what can logically be deduced therefrom.

18. The Delhi High Court on the scope of rectification u/s 254(2) as reported in the case of ***Ras Bihari Bansal v. CIT,*** reported in ***(2007) 293 ITR 365 : 2007 SCC OnLine Del 665;*** has held as under:

> ***"10.*** *Section 254 enables the concerned authorities to rectify any "mistake apparent from the record". It is well settled that an oversight of a fact cannot constitute an apparent mistake rectifiable under this section. Similarly, failure of the Tribunal to consider an argument advanced by either party for arriving at a conclusion, is not an error apparent on the record, although it may be an error of judgment. The mere fact that the Tribunal has not allowed a deduction, even if the conclusion is wrong, that will be no ground for moving an application under section 254(2) of the Act. Further, in the garb of an application for rectification, the assessee cannot be allowed to be permitted to reopen and re-argue the whole matter, which is beyond the scope of this section.****"***

19. As a sequel to above, this Court does not find any substance in the present Appeals, as the Tribunal has rightly dismissed the review applications of the appellant for want of any mistake apparent on the record.

20. Further, there is another aspect of the matter, inasmuch as the present Appeals have been filed under Section 260A of the Act. It is settled proposition of law that the Tribunal is the final authority to decide on the issue of facts. The High Court can only interfere in the

order of Tribunal if there exists a substantial question of law.

21. Recently, this Bench in the case of ***Principal Commissioner Of Income Tax I, Lucknow Vs. Medharaj Techno Concept Pvt. Ltd. Thru. Authorized Person,*** reported as ***(Neutral Citation No. - 2026:AHC-LKO:24918-DB)*** while examining the scope of appeal Under Section 260A of the Act, undertook an arduous finding to trace the law prevailing for determining the substantial question of law. This Court after noting various judgments on the said aspect, including ***Arulvelu and Another Vs. State and Another*** reported in ***(2009) 10 SCC 206; S.R. Tewari Vs. Union of India*** reported in ***(2013) 6 SCC 602; CIT Vs. Ajay Kapoor*** reported in ***2013 SCC OnLine Del. 2779;*** concluded as follows:

> ***"11.*** *As a sequel to the aforesaid judgments of the Hon'ble Supreme Court and High Court, we are of the view that unless there is perversity in the findings of fact, no substantial questions of law would arise. Further more, as far as the present case is concerned, we find that findings of the Tribunal are supported by cogent evidence brought on record and they are not in any manner against law or suffers from any procedural irregularities."*

22. Having gone through the materials on record and for all the aforesaid reasons, we do not find any perversity in the impugned order dated 30.10.2025 as the Tribunal has rightly concluded that there exists no mistake apparent on the record, which was required to

be rectified and/or amend as per Section 254(2) of the Act. Therefore, there exists no reason to admit these appeals as there is no substantial question of law involved in the present appeals.

23. Accordingly, the present Appeals ***fail*** and as such the same are ***dismissed.***

24. There shall be no order(s) as to cost.

May 06, 2026

MVS/-

(ABDHESH KUMAR CHAUDHARY, J.)

I agree

(SHEKHAR B. SARAF, J.)