



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.35160 OF 2025

Accost Media LLP

.. Petitioner

Versus

Deputy Commissioner of Income Tax,
Circle 27(1), Mumbai & Ors.

.. Respondents

**Mr. P. J. Pardiwalla, Senior Counsel a/w Gunjan Kakkad
i/b Mind and Confreres, Advocates for the Petitioner.**

Mr. Arjun Gupta, Advocate for the Respondents.

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE : DECEMBER 01, 2025**

ORAL JUDGMENT [PER B. P. COLABAWALLA, J.]

1. The above Writ Petition has been filed seeking to quash and set aside the order dated 13th October 2025 passed under Section 254(2) of the Income Tax Act, 1961.

2. Mr. Pardiwalla, the learned senior counsel appearing on behalf of the Petitioner submitted that the impugned order rejecting the Rectification Application [filed under Section 254(2)] by the Petitioner,

was mainly on the ground that the same was barred by the law of limitation. According to Mr. Pardiwalla, in the facts of the present case, the ITAT's order of which rectification was sought, is dated 10th December 2024. The said order was received by the Petitioner on 24th March 2025. Accordingly, the Petitioner, on 16th July 2025, filed the Miscellaneous Application seeking rectification of the order dated 10th December 2024. Since the Miscellaneous Application was filed beyond the period of 6 months from the end of the month in which the ITAT's order was passed (10th December 2024), the Petitioner received a notice from the Registry of the Tribunal that the Application is belated by 15 days. In reply to this notice, the Petitioner, on 9th September 2025, explained why the Application was not belated. In short, it was the case of the Petitioner that since the order was received only on 24th March 2025, they could not have filed any Application for rectification before receipt of the said order. Therefore, the Application was within time. Be that as it may, on 13th October 2025 the impugned order was passed and the Rectification Application filed by the Petitioner was rejected as being time barred.

3. As far as the limitation issue is concerned, Mr. Pardiwalla, in our opinion, correctly placed reliance on Rule 34A of the Income Tax

(Appellate Tribunal) Rules, 1963 read with Rule 9 thereof. Rule 34A deals with Applications filed under Section 254(2). Sub-Rule (2) of Rule 34A clearly stipulates that every application made under sub-rule (1) shall be in triplicate and the procedure for filing of Appeals in these rules will apply mutatis mutandis to such applications. Correspondingly, Rule 9 which deals with filing of Appeals, clearly stipulates [Rule 9(1)] that every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against, two copies of the order of the Income tax Officer, two copies of the grounds of appeal before the first appellate authority, and two copies of the statement of facts, if any, filed before the said appellate authority.

4. In other words, when Rule 34A is read with Rule 9, it is clear that along with the Application for rectification filed under Section 254(2), the Applicant has to furnish 2 copies of the order, atleast one of which is a certified copy. It is impossible for the Applicant to approach the Tribunal under Section 254(2) without being supplied a copy of the order. Once this is the case, it can hardly be contended that the Application filed by the Petitioner was time barred. We say this because in the facts of the present case, a copy of the order was furnished only on

24th March 2025 and the Miscellaneous Application [under Section 254(2)] has been filed well within 6 months from the said date. We are mindful of the fact that Section 254(2) stipulates that the Appellate Tribunal may at any time within 6 months from the end of the month in which the order is passed, with a view to rectify 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. However, Section 254(3) stipulates that the Appellate Tribunal shall send a copy of any orders passed under Section 254 [which would include an order passed under Section 254(1), and of which rectification is sought under Section 254(2)] to the assessee and to the Principal Commissioner or Commissioner. When one reads these provisions together along with the Rules, it is clear that limitation for filing the Rectification Application would start from the date when the order of which rectification is sought, is served upon the Petitioner.

5. In the view that we take, we are supported by two decisions of the Delhi High Court, one in the case of ***Golden Times Services (P) Ltd V/S Deputy Commissioner of Income Tax [(2020) 113 taxmann.com 524 (Delhi)]***, and the other in the case of ***Pacific***

Projects Ltd V/S Assistant Commissioner of Income Tax

[(2021) 125 taxmann.com 94 (Delhi)]. The relevant portion of the

decision in *Golden Times Services (P) Ltd (supra)* reads as under:-

“10. Be that as it may, the real question before us is as to what would be the relevant date for the purpose of commencement of period of limitation. To hold the date of the order to be the relevant date for the purpose of calculating the period of six months envisaged under section 254(2) of the Act, can lead to several absurd and anomalous situations. An order passed without the knowledge of the aggrieved party, would render the remedy against the order meaningless as the same would be lost by limitation while the person aggrieved would not even know that an order has been passed. Such an interpretation would not advance the cause of justice and would not be the correct approach and thus cannot be countenanced. A person who is aggrieved or concerned with an order would legitimately be expected to exercise his rights conferred by the provision and unless the order is communicated or is known to him, either actually or constructively, he would not be in a position to avail such a remedy. The words “six months from the end of the month in which the order was passed” therefore, cannot be given a narrow and restrictive interpretation. There are several decisions of the Apex Court and other High Courts, where similar question came up for consideration. The Courts have always leaned in favour of an interpretation which would enable an aggrieved party to avail its remedy in a meaningful manner, so that the right conferred by a provision does not remain fanciful or illusory.”

11. The Supreme Court in the case of *Sree Ayyankar Spg. & Wvg. Mills Ltd. v. CIT* [2008] 171 Taxman 498/301 ITR 434, while analysing section 254 of the Act, prior to the amendment of 2016, while considering a different question, has observed that section 254(2) of the Act is divided in two parts. In the first part, the ITAT may, at any time, within four years [as stipulated in the erstwhile provision], from the date of order rectify any mistake apparent from the record and amend an order passed by its under sub-section (1). Under the second part of section 254(2) of the Act, provision has been made for the amendment of the order passed by the Tribunal under

sub-section (1), when the mistake is brought to its notice by the assessee or the assessing officer through an application. The first part of section 254(2) of the Act refers to suo moto exercise of the power of rectification by the ITAT whereas the second part refers to rectification and amendment on an application being made by the assessing officer or the assessee pointing out the mistake apparent from the record.

12. *As noted above, section 254(2) of the Act has undergone certain amendments. However, there is no dispute that the provision still retains the distinctive two parts as observed by the Supreme Court in the above noted case. We are presently concerned with a scenario under Section 254(2) of the Act where the assessee has invoked its jurisdiction seeking rectification/amendment of the order passed by the ITAT. In this situation, the assessee has claimed that it did not have the knowledge of the earlier order passed by the ITAT on 18.10.2016 and the period of limitation of six months should commence from the date of the receipt of the knowledge of the decision. The date when the order was passed cannot be solely determined by referring to the date when the same was signed by the ITAT. We further find that under section 254(3) of the Act, the law stipulates that the ITAT shall send a copy of the order passed by it to the assessee and the Principal Commissioner. Further, Rule 35 of the ITAT Rules also requires that the orders are required to be communicated to the parties. For ready reference, Section 254(3) of the Act and the relevant rule are reproduced hereinunder:*

“254. Orders of Appellate Tribunal.

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

35. Order to be communicated to parties.

The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner.”

13. *From the abovenoted provisions, it emerges that the section and the Rule mandates the communication of the order to the parties. Thus, the date of communication or knowledge, actual or constructive, of the orders sought to be rectified or amended under section 254(2) of the Act becomes critical and determinative for the commencement of the period of limitation. The ITAT has not applied its mind on this aspect and has been swayed by the literal and mechanical construction of the words “six months from the end of the month in which the order was passed”. The ITAT failed to even delve into the question whether the affected party, either actually or constructively, was in knowledge of the order passed by the ITAT.”*

(emphasis supplied)

6. In fact in the case of *Pacific Projects Ltd (supra)*, the Delhi High Court, by following its decision in *Golden Times Services (P) Ltd (supra)*, held as under:

- “7. *This Court is also of the view that the ITAT has erroneously concluded that the miscellaneous application filed by the petitioner was barred by limitation under section 254(2) of the Act inasmuch as the petitioner had filed the miscellaneous application within six months of actual receipt of the order. If the petitioner/assessee had no notice and no knowledge of the order passed by the ITAT, it cannot be said that the limitation would start from the date the order was pronounced by the Tribunal.”*

7. We are therefore clearly of the view that the ITAT completely misdirected itself when it came to the conclusion that the Rectification Application filed by the Petitioner was time barred.

8. We must mention that the ITAT, to come to the conclusion that it did, relied upon a decision of this Court in the case of ***Leena Power Tech Engineers (P) Ltd V/S Deputy Commissioner of Income Tax [(2025) 172 taxmann.com 424 (Bombay)]***. We find that the reliance placed by the ITAT on this decision was wholly misplaced. The issue before this Court in the aforesaid decision was not whether limitation would start from the date on which the order was communicated to the assessee. In the facts of this case, what the assessee argued was that by virtue of the judgment passed by the Hon'ble Supreme Court on 10th January 2022 in *suo motu* Writ Petition (C) No.3 of 2020, the period from 15th March 2020 to 28th February 2022 ought to be excluded for calculating the limitation for filing an application under Section 254(2). This argument was negated by this Court on the ground that the aforesaid decision did not apply to the facts of the case because the time to file the Miscellaneous Application seeking rectification expired on 31st May 2022. There was no argument canvassed in this matter, and nor was it the assessee's case that its Miscellaneous Application is filed within time from the date of communication of the order sought to be rectified. Hence the reliance placed on this decision by the ITAT was wholly misplaced.

9. For all these reasons, we are clearly of the view that the ITAT misdirected itself when it held that the Rectification Application filed by the Petitioner was barred by the law of limitation. It was clearly filed within time.

10. Having said so, one still has to examine whether this Writ Petition ought to be entertained and the matter be remanded back to the ITAT to hear the Rectification Application afresh. Having heard Mr.Pardiwalla, the learned senior counsel appearing on behalf of the Petitioner, as well as Mr. Gupta, learned advocate appearing on behalf of the Revenue, we are of the view that since the Petitioner has already filed Income Tax Appeal No.753 of 2025 challenging the original order passed by the ITAT dated 10th December 2024, we need not send the aforesaid Rectification Application back to the ITAT. We find that the interest of the Petitioner would be adequately protected if he is permitted to canvass all the grounds raised in the present Petition pertaining to the merits of the matter in the appeal filed challenging the original order.

11. In view of the aforesaid facts, we dispose of the above Writ Petition by clarifying that all the grounds raised in the above Petition on

the merits of the matter are kept open to be agitated by the Petitioner in the Appeal filed by him challenging the order dated 10th December 2024.

12. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

13. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]