



Global Business Tax Alert Sharp Insights

High Court has inherent power to review its own order

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Synopsis

The Supreme Court has observed that High Court under section 260A of the Act has the jurisdiction to review and recall its own order.

Facts

- Guwahati High Court had delivered a judgement under section 260A of the Income Tax Act, 1961 ('Act') in the case of M/s Meghalaya Steel Ltd. ('assessee' or 'company')
- Assessee filed a review petition against the above judgement before the High Court alleging that the High Court did not formulate the substantial question of law for adjudication before hearing the appeal on merits and hence the order ought to be recalled.
- The High Court agreed with assessee's petition and recalled its earlier order
- Tax Department filed appeal before the Supreme Court against the above review order of High Court inter-alia challenging the jurisdiction of the Hon'ble High Court u/s 260A of the Act to review its own judgement.

Issues for consideration before the Supreme Court

Whether High Court has the jurisdiction to review its judgement under section 260A of the Act.

Decision of the Supreme Court

- The Supreme Court held that High Courts being Courts of Record under Article 215 of the Constitution of India have the power to review its own order.
- Supreme Court relying on its earlier judgment¹ held that power of review inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it.
- Supreme Court further held that Section 260A(7) of the Act does not curtail or restrict the application of provisions of Code of Civil Procedure to the Income Tax Act (which gives the Courts the power to review its own order). Section 260A(7) states that all provisions that would apply qua appeals in the Code of Civil Procedure would apply to appeals under section 260A of the Act as well. Therefore, section 260A(7) does not in any manner affect the High Court's inherent jurisdiction to review its own order.

Comments

This is a welcome decision rendered by the Supreme Court confirming the power of High Courts to review its own order.

This decision reverses various High Court decisions² which had held otherwise that the High Court has no power of review u/s 260A of the Act and affirms the decision rendered by Patna High Court in the case of D. N. Singh vs. CIT 325 ITR 349

Source: Commissioner of Income Tax, Guwahati-I vs M/s. Meghalaya Steels Ltd. (Civil Appeal No. 10495 of 2013) (Supreme Court)

¹ Shivdeo Singh & Ors. Vs. State of Punjab and Ors (AIR 1963 SC 1909 5)

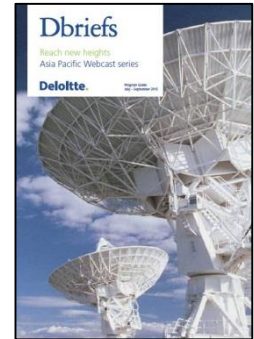
² CIT Vs. West Coast Paper Mills Limited 319 ITR 390 (Bom); Automobile Corporation of Goa Ltd (206 Taxman 640) (Bom); Deepak Kumar Garg vs. CIT 327 ITR 448 (MP)

Upcoming Dbriefs - Register

India's New Export Incentive Schemes: A Real Boost for Exporters of Goods and Services

Thursday, 27 August 2015, 11:30 AM – 12:30 PM IST

As a step further to raise the global competitiveness of the Indian manufacturing and service sectors, the new FTP has revamped various export incentives available to the exporters of goods and services. The two new schemes under the FTP, namely Merchandise Export from India Scheme (MEIS) and the Service Exports from India Scheme (SEIS), aim to provide benefits to all exporters doing business in India. For more information, visit the [Dbriefs](#) page.



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