IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3474 of 2018

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METEOR SATELLITE PVT. LTD THROUGH SHAREHOLDER AUTHORIZED PERSON AMOL SHAH
Versus
INCOME TAX OFFICER WARD 2(1)(4)
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Appearance:
MR SUDHIR M MEHTA(2058) for the PETITIONER(s) No. 1
MS SHAILEE S MEHTA(5873) for the PETITIONER(s) No. 1
for the RESPONDENT(s) No. 1
==

CORAM: HONOURABLE Mr. JUSTICE AKIL KURESHI
and
HONOURABLE Mr. JUSTICE B.N. KARIA
5th March 2018

ORAL ORDER (PER : HONOURABLE Mr. JUSTICE AKIL KURESHI)

The petitioner has challenged notice dated 13th February 2018 issued by the assessing officer seeking to rectify an order dated 12th December 2017 passed by him, which is an order giving effect to the order of ITAT dated 27th September 2017.

Counsel for the petitioner drew our attention to the said order of ITAT and submitted that the Tribunal had asked the Assessing Officer to decide the issue of adjusting the book-profit of the assessee for the purpose of Section 115JB of the Act, after granting relief under Section 54 EC. This was in light of the judgment of the Madras High Court in case of **Commissioner of**

Income-tax III, Chennai v. Metal & Chromium Plater [P] Limited, reported in [2016] 76 taxmann.com 229 [Madras]. The Assessing Officer at one stage, while passing order dated 12th December 2017, did grant such benefit to the assessee. Now he proposes to withdraw such benefit in purported exercise of powers of rectification for which purpose, the impugned notice has been issued.

Counsel for the petitioner submitted that once the Tribunal has decided such an issue in favour of the assessee, it is not open for the Assessing Officer to take any other view. Secondly, the Assessing Officer has not even stated which apparent error has been committed in the Order dated 12th December 2017 to prompt him to exercise rectification powers.

Notice to the respondents, returnable on **2nd April 2018.** *Impugned* notice dated 13th February 2018 is stayed.

Direct service is permitted.

[Akil Kureshi, J.]

[B.N Karia, J.]

Prakash