

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.534 of 2024**

Matilal and Gouri Food and Storage Private Limited, a company incorporated under the relevant provisions of the Companies Act, 1956, having its registered office at Madhuban, Kathalthali, Agartala, West Tripura. Pin-799003. Represented by its authorised signatory Sri Haradhan Ch. Banik.

.....Petitioner(s);

Versus

1. Union of India, service through its secretary, Ministry of Finance, Central Board of Direct Taxes, having his office at North Block, Cabinet Secretariat, Raisina Hills, New Delhi-110001;
2. The Principal Commissioner of Income Tax (PCIT) Shillong having his office at Ayakar Bhawan, M.G. Road, Shillong, Meghalaya-793001.
3. The Assessing Officer, Assistant Commissioner of Income Tax, Agartala circle, Ayakar Bhawan, Netaji Subhash Road, Agartala-799001.
4. The Register, Income Tax Appellate Tribunal, Jeevan Prakash Bhawan, 2<sup>nd</sup> Floor, Fancy Bazar, Guwahati-781001, Assam. ITAT, Guwahati.

.....Respondent(s).

For Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate,  
Mr. D.J. Saha, Advocate,  
Mr. B. Paul, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH  
HON'BLE MR. JUSTICE ARINDAM LODH**

**Order**

**14/08/2024**

Heard Mr. B.N. Majumder, learned senior counsel for the petitioner and Mr. Bidyut Majumder, learned Deputy SGI appearing for the respondent-Union of India.

2. Petitioner has prayed for setting aside the order dated 31.03.2021 passed by respondent No.2 under Section 264 of the Income Tax Act, 1961 or in the alternative to direct him to decide the prayer of the petitioner made on 11.09.2023 under Section 154 of the Income Tax Act in view of the existing law propounded by the Hon'ble Apex Court as well as in terms of the Circular No.39/2016 dated 29.11.2016.

3. Briefly stated, the revision petition preferred by the petitioner under Section 264 of the Income Tax Act was decided by the respondent No.2-Principal Commissioner of Income Tax (PCIT), Shillong on 31.03.2023 upon directions passed by this Court in WP(C) No.587/2015 dated 25.02.2016 to hear the revision petition on merits since it was earlier rejected only on grounds of delay. The revision petition relates to assessment year 2009-2010 arising out of the assessment order dated 28.12.2011 passed on scrutiny assessment under Section 143(3) of the Income Tax Act.

4. Learned senior counsel for the petitioner submits that he had approached the learned ITAT on an erroneous advice against the revisional order but that was withdrawn on 08.06.2023 [Annexure-7]. Thereafter, the petitioner preferred a rectification application under Section 154 of the Income Tax Act on 11.09.2023 which is still pending before the respondent No.2. Learned senior counsel further submits that the whole issue relating to grant of transport subsidy is covered by the decision of the Gauhati High Court in its order dated 29.05.2013 reported as *CIT v. Meghalaya Steels Limited (2013) 356 ITR 235 (Gau)*. He also submits that the matter travelled to the Hon'ble Supreme Court of India. The Apex Court vide its judgment dated 09.03.2016 reported as *CIT v. Meghalaya Steels Limited (2016) 383 ITR 217 (SC)* has held that subsidies including transport subsidy are only in order to reimburse costs actually incurred by the assessee in manufacturing and selling of its products and the profit can be calculated by deducting from the sale price of an article all elements of cost which go into manufacturing or selling it. This deduction is under Section 80-IC instead of 80-IB under which the petitioner had erroneously claimed while filing his return. Learned senior counsel submits

that the CBDT has also issued a circular in that regard bearing No.39/2016 dated 29.11.2016 which has been quoted in the rectification application and annexed as Annexure-9. However, the PCIT, Shillong has not disposed of the rectification petition. Therefore, petitioner has been compelled to approach this Court for the present relief. Therefore, an appropriate direction may be issued upon the respondent No.2 to consider and decide the rectification application within a stipulated period.

5. Mr. Bidyut Majumder, learned Deputy SGI, represents the Union of India. He submits that the matter relates to the Revenue and not to respondent No.1.

6. On consideration of the submission of learned senior counsel for the petitioner and upon taking note of the above relevant facts placed from record, we deem it proper to dispose of the instant writ petition without entering into the merits of the contention of the petitioner by a direction simpliciter upon the respondent No.2-PCIT, Shillong to consider and take a decision in accordance with law on the rectification application of the petitioner under Section 154 of the Income Tax Act within a reasonable period, preferably 3(three) months from the date of receipt of copy of this order.

7. Pending application(s), if any, shall also stand disposed of.

**(ARINDAM LODH), J**

**(APARESH KUMAR SINGH), CJ**

Pijush/