

IN THE HIGH COURT OF DELHI AT NEW DELHI

19.05.2009

**Present: Mr. J R Goel for the appellant.
Mr. R M Mehta for the respondent.**

ITA Nos 1378/2008, 1393/2008 OCL INDIA LTD

The contention which is raised before us by the Revenue is that it is Section 244A and not Section 244(1A) of the Income Tax Act, 1961 (in short Act) which is applicable. So far as this question is concerned, it has attained finality in terms of the order dated 27.02.2006 of the Commissioner of Income Tax (Appeals) [in short CIT (A)]. Before him, the contention was not whether Section 244A or 244(1A) was applicable, it was understood that it was only the latter which was attracted. By his order dated 14.03.2006, the Assessing Officer has, in fact, given effect to the CIT (A) order by computing interest in conformity with the provisions of Section 244(1A) of the Act. It transpires that subsequently, the Assessing Officer has sought to invoke Section 154 of the Act to rectify what he considered was a mistake.

In our view, the debate as to which of the Sections is applicable, stands closed on failure of the Revenue to challenge the order dated 27.02.2006 before the Income Tax Appellate Tribunal (in short the ITAT). It is contended by learned counsel for the Revenue that in the said order dated 27.02.2006, the CIT(A) has stated that interest shall, after due verification as per law, be allowed. This contention has been examined and rejected by the CIT (A) in these proceedings.

The question which had been raised before the ITAT was whether it was open to the Assessing Officer to invoke Section 154 to correct what he consider was a mistake. After perusing several judgments on the issue, the finding of the ITAT is that it was impermissible to invoke Section 154. We find no error in this conclusion.

No substantial question of law arises for consideration. The appeal is dismissed.

VIKRAMAJIT SEN, J

RAJIV SHAKDHER, J

MAY19,2009