

## **RANA ROHIT SINGH**

Subject: Allahabad High Court on Section 264

In context of dismissal of assessee's revision petition by CIT u/s 264 taking the ground that assessee should have filed appeal and revision is not substitute of appellate remedy and since assessee has filed for other years appeal, subject revision petitions is not maintainable; All HC while allowing assessee's WRIT petition has interalia observed that:

"The scheme of the aforesaid Section 264 leaves no ambiguity that in a case where though appeal is provided under the provisions of the Act, revision can be filed, without taking recourse to the remedy of appeal. It need be pointed out that Section 264 is a power vested with the Commissioner in addition to the right of the appellate authority to look into the assessment proceedings and the right of the assessee to file appeal. The discretion vests with the Commissioner to entertain the revision, if the conditions prescribed in Sub-Section (4) do exist.

The Commissioner in the instant case was swayed by the fact that the revision under Section 264 is not a substitute of appeal. This is not the correct interpretation of Section 264.

The other ground was that the assessee, namely, the petitioners have chosen to file appeal against assessment in the previous and the subsequent assessment years and, therefore, there is every likelihood for having conflicting judgements.

We are of the view that the Commissioner could not have refused to entertain the revision on the ground that it is not a substitute of appeal, though there may be many more reasons, on which exercise of the discretionary jurisdiction can be refused but such reasons have to be germane to the issue and valid. "

Further, find enclosed Uttarakhand High Court ruling on SUBSIDY TAXATION.