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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 571/2016**

PR. COMMISSIONER OF INCOME TAX -6 Appellant

Through: Mr. Puneet Rai with Mr. Ruchir
Bhatia, Advocates.

versus

MEWAT ZINCS PVT. LTD Respondent

Through: Mr. Piyush Kaushik, Advocate.

+ **ITA 572/2016**

PR. COMMISSIONER OF INCOME TAX -6 Appellant

Through: Mr. Puneet Rai with Mr. Ruchir
Bhatia, Advocates.

versus

MEWAT ZINCS PVT. LTD. Respondent

Through: Mr. Piyush Kaushik, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE PRATHIBA M. SINGH

ORDER

% **25.07.2017**

1. The present appeals by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') challenge the order dated 12th January, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 1622 and 2216/Del/2006 for the Assessment Years ('AYs') 1996-97 and 1997-98 respectively.

2. The point sought to be urged by the Revenue is that whether the ITAT



could have, under Section 254(2) of the Income Tax Act, reviewed its earlier order dated 6th February, 2009 whereby it had allowed the appeals filed by the Revenue and partly allowed the cross objections filed by the Assessee.

3. It appears that after the above order dated 6th February, 2009 was passed by the ITAT, the Assessee filed applications before the ITAT being M.A. No. 178 & 179/Del/2009 under Section 254(2) of the Act. The said applications came to be allowed by order dated 24th April, 2009 and the ITAT recalled its earlier order dated 6th February, 2009. Thus, the appeals filed by the Revenue were again set down for hearing together with the cross-objections filed by the Assessee.

4. Strangely, the order dated 24th April, 2009, which is an order under Section 254(2) of the Act, was never challenged by the Revenue and has, therefore, attained finality. Since the order dated 24th April, 2009 was never challenged before this Court, it is obvious that the said issue cannot now be raised at a stage, when after the restoration of the appeals of the Revenue and the cross-objections of the Assessee, the ITAT has even disposed of the restored appeals and cross-objections afresh, by the impugned order. The question urged by the Revenue in these appeals, therefore, does not arise.

5. The appeals are dismissed.

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S.MURALIDHAR, J

A handwritten signature in black ink, appearing to be 'Prathiba M. Singh', written in a cursive style.
PRATHIBA M. SINGH, J

JULY 25, 2017

srb