Shiva Educational Society v. Principal Commissioner of Income Tax-II, Chandigarh

ITA 2/2023

ITA 2/2023 | 2023-10-31

Rectification application remanded after filing-date error

254(2)

High Court of Himachal Pradesh | Shimla | M.S. Ramachandra Rao | Jyotsna Rewal Dua

Assessment years:

01 FACTS OF THE CASE

Shiva Educational Society appealed the Tribunal's 6 June 2023 rejection of MA12/Chd/2022 seeking partial recall and rectification of its 6 May 2020 order in ITA490/Chd/2017. The Tribunal treated the application as filed on 29 August 2022 and delayed by 267 days. The assessee relied on a 2 September 2021 defect memo to establish filing on 25 August 2021.

Source: PDF pp.1–2, paras1–3

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted the defect memo as establishing the earlier filing date. Applying the Supreme Court's 10 January 2022 COVID limitation order, it held that excluding the period between the original order and actual filing made the application timely. Revenue did not dispute the legal position, though it maintained the later filing date.

Source: PDF pp.2–3, paras4–6

03 JUDICIAL DECISION

The appeal was allowed, the 6 June 2023 order in MA12/Chd/2022 was set aside, and the matter was remitted to the Tribunal for fresh consideration on merits.

Source: PDF p.3, para7

04 OUTCOME / IN WHOSE FAVOUR

The assessee obtained restoration of consideration of its rectification application. The High Court neither allowed the requested rectification on merits nor decided the underlying tax controversy.

Source: PDF p.3

05 EXPERT COMMENTS

Establish the filing date before arguing delay — The defect memo dated 2 September 2021 was incompatible with treating the original application as first filed in August 2022. This documentary chronology resolved the factual premise of the Tribunal's limitation decision. Original filing evidence and later processing entries should be separated before calculating delay. The judgment does not announce that every defective submission is necessarily a valid filing.

Exclusion of time is distinct from an inherent condonation power — The Tribunal had relied on the section 254(2) period and its lack of express power to condone. The High Court's answer was that the application was timely once the correct filing date and the Supreme Court's exceptional COVID exclusion were applied. It did not confer an unrestricted discretion on the Tribunal to enlarge the statutory period in unrelated cases.

Restoration does not establish an apparent error in the tax order — The remand reopens examination of the miscellaneous application, not automatic allowance of the requested partial recall. Whether the original order contained a rectifiable mistake remained for the Tribunal. This distinction prevents a procedural success from being reported as a final decision on an exemption, deduction or assessment issue absent from this source.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court order; verified source copy

Complete source PDF reviewed: 3 physical pages.

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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