(2005) 08 DEL CK 0055

In the Delhi High Court

Case No : IT Appeal No. 668 of 2005

Commissioner of Income Tax — APPELLANT

Vs

SIEL Ltd. — RESPONDENT

Date of Decision : 16-08-2005

Acts Referred:

Income Tax (Appellate Tribunal) Rules, 1963 — Rule 24
Income Tax Act, 1961 — Section 254(2)

Citation : (2005) 199 CTR 431 : (2006) 284 ITR 381

Hon'ble Judges : T.S. Thakur, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Sanjeev Sabharwal and Rashmi Chopra, for the Appellant;

Judgement

1. We have heard learned counsel for the appellant and perused the order under challenge. The Tribunal had, it appears, disposed of the appeal on merits ex parte in the absence of the assessed vide order dt. 27th Feb., 2003. An application was thereafter filed seeking recall of the said order in what was described as a miscellaneous application u/s 254(2) of the IT Act. The Tribunal has, by the order impugned in this appeal, allowed the said application and recalled the order of dismissal passed by it. The said order dt. 27th Feb., 2003 is clearly referable to Rule 24 of the ITAT Rules, 1963, which empowers the Tribunal to dispose of an appeal on merits in the absence of the appellant or its Authorised Representative. The proviso to the said rule, however, permits the Tribunal to recall any such order of disposal if it is satisfied that there was sufficient cause for the non-appearance of the appellant when the matter was called on for hearing. This is precisely what has happened in the present case. The Tribunal''s power to recall the order in terms of the proviso to Rule 24 not being in question, no fault can be found with the order of the Tribunal in recalling the previous order after recording its satisfaction that the non-appearance of the appellant was for a sufficient reason. No substantial question of law arises for consideration.

2. Dismissed.

