(2004) 266 ITR 208

Delhi High Court

Case No: Income Tax A. No. 320 of 2002

Commissioner of Income Tax		APPELLANT
	Vs	
Krishak Bharti Co-operative Ltd.		RESPONDENT

Date of Decision: Nov. 26, 2002

Acts Referred:

- Income Tax Act, 1961 - Section 154, 80I

Citation: (2004) 266 ITR 208

Hon'ble Judges: Sharda Aggarwal, J; D.K. Jain, J

Bench: Division Bench

Advocate: Sanjeev Khanna and Subhash C. Sharma, for the Appellant;

Judgement

1. This appeal by the Revenue u/s 260A of the Income Tax Act, 1961 (for short "the Act"), is directed against the order dated April 19, 2002, passed by the Income Tax Appellate Tribunal, New Delhi (for short "the Tribunal"), in I. T. A. No 6585/Delhi of 1996, pertaining to the assessment year 1992-93.

2. The only issue which arose for consideration before the Tribunal was whether a part of the relief granted to the respondent/assessed u/s 80-I of the Act could be withdrawn by taking recourse of Section 154 of the Act. The Tribunal, by placing reliance on various decisions of the apex court and of this court has come to the conclusion, and rightly so, that since the question whether an assessed is entitled to deduction u/s 80-I or not, is debatable, the relief granted under the section could not be said to be a mistake apparent from the record, within the meaning of Section 154 of the Act.

3. While interpreting the scope of Section 154 of the Act, the Supreme Court in T.S. Balaram, Income Tax Officer, Company Circle IV, Bombay Vs. Volkart Brothers, Bombay, , held that a mistake apparent on the record within the meaning of Section 154 of the Act

must be an "obvious" and "patent" mistake and not something which can be established by a long drawn process of reasoning on points on which there may be conceivably two opinions. A decision on a debatable point of law is not a mistake apparent from the record. In the light of the settled legal position, no fault can be found with the impugned order. The appeal is accordingly dismissed.