



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF MARCH, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR**

**REVIEW PETITION NO.41 OF 2026**

**BETWEEN:**

1. THE PR. COMMISSIONER OF INCOME TAX-1  
BMTc BUILDING, 80 FEET ROAD,  
6<sup>TH</sup> BLOCK, KORAMANGALA,  
BANGALORE-560 095.
2. THE ASST. COMMISSIONER OF INCOME-TAX,  
ROOM NO.215, 2<sup>ND</sup> FLOOR,  
BMTc BUILDING, 80 FEET ROAD,  
6<sup>TH</sup> BLOCK, KORAMANGALA,  
BANGALORE-560 095.

...PETITIONERS

(BY SRI. RAVI RAJ Y.V, ADVOCATE)

**AND:**

AIRBUS INDIA PVT LTD.,  
HAVING OFFICE AT 4<sup>TH</sup> FLOOR,  
XYLEM PLOT NO.4 AND 4A,  
BANGALORE-560 048.  
DYAVASANDRA INDUSTRIAL AREA,  
MAHADEVAPURA POST, WHITEFIELD ROAD,  
REPRESENTED BY ITS HEAD OF TAXATION,  
SOMYAJIT MALLICK.

...RESPONDENT

(BY SRI. T. SURYANARAYANA, SENIOR COUNSEL APPEARING FOR  
SMT. TANMAYEE RAJKUMAR, ADVOCATE)

THIS REVIEW PETITION IS FILED UNDER SECTION 114 R/W  
ORDER 47 RULE 1 OF CPC 1908, PRAYING TO ALLOW THE REVIEW THE  
ORDER DATED 28.10.2025 PASSED BY THIS HON'BLE COURT IN WP  
NO.24690/2025.

THIS PETITION, COMING ON FOR *ORDERS*, THIS DAY, ORDER  
WAS MADE THEREIN AS UNDER:





CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

**ORAL ORDER**

In this petition, petitioners seek the following reliefs:

*"i) Review the order dated 28.10.2025 passed by this Hon'ble Court in W.P.No.24690/2025.*

*ii) To pass such other suitable orders as this Hon'ble Court deems fit to be granted in the facts and circumstances of the case in the interest of justice and equity."*

2. Heard learned counsel for the petitioners and learned counsel for the respondent and perused the material on record.

3. Learned counsel for the petitioners would reiterate the various contentions urged in the petition and submits that the final order dated 28.10.2025 contains an error apparent on the face of the record inasmuch as the CBT Circular No.19 of 2024 comprising of Guidance Note 2/2024, in particular, FAQ No.47 has not been considered by this Court since the same was not brought to the notice of this Court at the time of disposal of the petition. It is submitted that having regard to the ITAT Order dated 05.08.2022 passed by the Tribunal, the said Circular would have the effect of



rejecting the claim of the respondent – writ petitioner, who was not entitled to the relief sought for in the writ petition and as such, the order dated 28.10.2025 passed in W.P.No.24690/2025 deserves to be set aside and the writ petition deserves to be restored to the file of this Court.

4. Per contra, learned Senior Counsel for the respondent – writ petitioner would invite my attention to the material on record including the final order passed by this Court in order to point out that having regard to the undisputed fact that Form No.1 under the DTSSV Scheme was filed on 20.12.2024, to which the Review petitioners issued Form No.2 on 04.01.2025, in pursuance of which the respondent – writ petitioner filed a rectification application dated 21.01.2025 which preceded the issuance of OGE (order giving effect) dated 26.03.2025 passed by the department / Revenue, which was made the basis to issue the revised impugned Form No.2 subsequently on 28.07.2025 coupled with the fact that as on that date, the appeal in ITA No.130 of 2023 was pending before this Court having been filed on 23.03.2023, this Court was fully justified in passing the impugned order directing consideration of the rectification application filed by the respondent earlier to



issuance of the impugned Form No.2 by passing the said final order, which does not warrant interference by this Court in the present petition.

5. A perusal of the material on record will indicate that the various contentions urged by both sides have been considered by this Court while passing the final order, as hereunder:

*"In this petition, petitioner seeks for the following reliefs:-*

*"a) Quashing the certificate in Form-2 dated 28.07.2025 issued by the Respondents under Section 92 of the Finance Act (No. 2), 2024 bearing DIN 480741901280725 (Annexure 'J') for the assessment year 2015-16;*

*b) Directing the Respondents to issue a fresh certificate in Form-2 under Section 92 of the Finance Act (No. 2), 2024 for the assessment year 2015-16, by taking into account the tax payable at Rs. 6,51,40,540/-, i.e., one-half of the tax payable on the transfer pricing adjustment of Rs. 13,18,94,281/- and the disallowance under Section 40(a)(i) of the Income-tax Act, 1961 of Rs. 25,13,98,099/- determined in the final assessment order dated 29.10.2019 (Annexure 'B') and compute the consequential refund after taking into account all tax credits available to the Petitioner;*

*c) Quashing the order dated 26.03.2025 passed by the under Section 143(3) read with Section 254 of Income-tax Act, 1961 bearing DIN ITBA/AST/M/143(3)/2 25/1075278732(1) (Annexure - 'H') for the assessment 2015-16 to the extent questioned in the present petition.;*

*In the alternative;*



d) *If the relief sought vide prayer (a), (b) and (c) are not granted, permit the Petitioner to file an appeal / petition before the appropriate authority, against the order dated 26.03.2025 passed by the 2<sup>nd</sup> Respondent for the assessment year 2015-16, under Section 143(3) read with Section 254 of the IT Act bearing DIN ITBA/AST/M/143(3)/2024-25/1075278732(1); and*

e) *pass such other or further orders as this Hon'ble Court may deem fit in the facts and circumstances of the case, in the interests of justice and equity."*

2. *Heard learned Senior counsel for the petitioner and learned counsel for the respondents – revenue and perused the material on record.*

3. *A perusal of the material on record will indicate that in relation to the assessment year 2015-16, final assessment order dated 29.10.2019 was passed by the respondents. Aggrieved by the same, petitioner filed an appeal which was disposed of by the ITAT vide final order dated 05.08.2022 answering certain issues in favour of the petitioner and remitted the matter back to the Assessing Officer in relation to the remaining issues. Aggrieved by the order of the ITAT insofar as answering issues in favour of the petitioner, respondents have preferred an appeal before this Court in ITA No.130/2023, which is pending adjudication.*

4. *In the meanwhile, during the pendency of the said appeal, a scheme known as 'Direct Tax Vivad Se Vishwas Scheme, 2024' (for short 'the DTVSV scheme') was promulgated in July, 2024, pursuant to which, the petitioner filed Declaration in Form-1 on 20.12.2024. In pursuance of*



*the same, the 1<sup>st</sup> respondent issued an order in Form-2 dated 04.01.2025 determining refund payable to the petitioner but failed to grant credit of tax deducted at source and advance tax which credit the petitioner, he was entitled to claim from the respondents. Under these circumstances, the petitioner filed an application dated 21.01.2025 before both the respondents seeking rectification of the mistakes in Form-2 i.e., by seeking re-computation of the refund upon grant of credit on the appropriated tax already remitted by the petitioner.*

*5. It is a matter of record and undisputed fact that the rectification application are pending before the respondents even as on today. In the meanwhile, on 26.03.2025, the 2<sup>nd</sup> respondent passed an Order Giving Effect (OGE) to the aforesaid order dated 05.08.2022 passed by the ITAT interalia deleting the TP adjustment and making disallowances of the reimbursement of salary costs of seconded employees under Section 40(i)(a) of the I.T.Act. The said OGE was made the basis by the 1<sup>st</sup> respondent to issue the impugned revised Form-2 dated 28.07.2025 by treating the quantum involved in the appeal before this Court only pursuant to TP adjustment and the quantum in respect of disallowance under Section 40(a)(i) of the I.T.Act is being reduced to 'Nil'. Aggrieved by the impugned revised Form-2 and seeking other reliefs, petitioner is before this Court by way of the present petition.*

*6. A perusal of the material on record including the aforesaid Form-2 will indicate that the 1<sup>st</sup> respondent clearly*



*fell in error in issuing the impugned Form-2 on the basis of the OGE dated 28.07.2025, based on Annexure-H the OGE dated 26.03.2025 , which is clearly illegal and impermissible in law and so also, since the rectification applications filed by the petitioner are still pending consideration, I deem it just and appropriate to set aside the impugned Endorsement and dispose of this petition by issuing certain directions for disposal of the rectification application filed by the petitioner.*

7. *In the result, I pass the following:-*

**ORDER**

*(i) Petition is hereby allowed.*

*(ii) The impugned certificate at Annexure-J in Form-2 dated 28.07.2025 issued by the respondents is hereby quashed.*

*(iii) The respondents are directed to consider the rectification application at Annexure-G dated 21.01.2025 filed by the petitioner after granting credit of appropriated tax already paid by the petitioner in accordance with law and without reference to the order giving effect to at Annexure-H dated 26.03.2025 as expeditiously as possible within an outer limit of three months from the date of receipt of a copy of this order.”*

6. In my considered opinion the order under review cannot be said to suffer from any illegality or infirmity nor can the same be said to contain any error apparent on the face of the record warranting interference by this Court in exercise of its limited



review jurisdiction under Section 114 read with Order XLVII Rule 1 CPC and as such, the said contention urged by the petitioners cannot be accepted.

7. I have given my anxious consideration to the submissions made by the learned counsel for the review petitioners and perused the material on record including the impugned order in the light of the decisions of the Apex Court in **(i) Shri Ram Sahu vs. Vinod Kumar Rawat – Civil Appeal No.3601/2020 dated 03.11.2020, (ii) S.Murali Sundaram vs. Jothibai Kannan – (2023) SCC Online SC 185 (iii) S.Madhusudhan Reddy vs. V.Narayana Reddy – Civil Appeal Nos.5503-04/2022 dated 18.08.2022** and the recent judgment of the Apex Court in the case of **(iv) Sanjay Kumar Agarwal vs. State Tax Officer –2023 SCC Online SC 1406**, wherein it is held as under:-

**16. The gist of the afore-stated decisions is that:—**

*(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.*

*(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.*



*(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.*

*(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."*

*(v) A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."*

*(vi) Under the guise of review, the petitioner cannot be permitted to reargue and reargue the questions which have already been addressed and decided.*

*(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*

*(viii) Even the change in law or subsequent decision/judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.*

8. Insofar as reliance placed upon the Circular No.19/2024 dated 16.12.2024 by the review petitioners, though the said Circular was not brought to the notice of this Court, having regard to the findings recorded by this Court while allowing the petition and directing consideration of the rectification application, which was filed by the respondent – writ petitioner on 21.01.2025



earlier to the impugned Form No.2 issued subsequently on 28.07.2025 coupled with the fact that the appeal filed by the review petitioners / department / revenue was pending before this Court in ITA No.130/2023, the Circular will not come to the aid of the review petitioners to seek review of the order passed by this Court, which is otherwise correct and proper in law. Under these circumstances, I do not find any merit in the petition and the same is hereby ***dismissed.***

**Sd/-  
(S.R.KRISHNA KUMAR)  
JUDGE**

SV  
List No.: 2 Sl No.: 28