

IT : SLP dismissed against High Court ruling that where assessee filed instant petition challenging validity of Tribunal's order under section 254(2), in view of fact that Tribunal had accepted additional evidence without complying with provisions of rule 29 of ITAT Rules, impugned order passed by Tribunal became defective and, thus, same was to be set aside

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[2019] 105 taxmann.com 35 (SC)

SUPREME COURT OF INDIA

Deputy Commissioner of Income-tax, Circle 18(1)

v.

Radhika Roy*

ASHOK BHUSHAN AND K.M. JOSEPH, JJ.
SPECIAL LEAVE PETITION (CIVIL) DIARY NO. 7801 OF 2019†
MARCH 29, 2019

Section [254](#) of the Income-tax Act, 1961 read with [rule 29](#) of the Income-Tax (Appellate Tribunal) Rules, 1963 - Appellate Tribunal - Powers of (Power to admit additional evidence) - Assessment years 2009-10 and 2010-11 - Assessee filed instant petition challenging validity of order passed by Tribunal under section 254(2) - According to assessee, Tribunal, in a very unusual manner, entertained additional documents which were not part of record - High Court by impugned order held that since revenue had not moved a formal application under rule 29 of ITAT Rules, Tribunal could not admit additional evidence and in view of aforesaid irregularities, impugned order passed by Tribunal became defective and, thus, same was to be set aside - Whether Special Leave Petition filed against impugned order was to be dismissed - Held, yes [Paras 3, 5 and 6][In favour of assessee]

CASE REVIEW

Dr. Prannoy Roy v. Dy. CIT [\[2018\] 93 taxmann.com 328/255 Taxman 369 \(Delhi\)](#) [*SLP dismissed*].

A.N.S. Nadkarni, ASG, Ms. Praveena Gautam, Ms. Niranjana Singh, Advs. Mrs. Anil Katiyar, AOR Sachit Jolly, Siddharth Joshi and Ms. Vijayalakshmi M., Advs. *for the Petitioner.*

ORDER

1. Delay condoned.
2. The special leave petitions are dismissed.
3. Pending application is disposed of.

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*In favour of assessee.

†Arising out of order of High Court in *Dr. Prannoy Roy v. Dy. CIT* [\[2018\] 93 taxmann.com 328/255 Taxman 369 \(Delhi\)](#).