OD-4 ORDER SHEET

WPO/138/2014

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

ORIGINAL SIDE

RAKESH AGARWAL

VS

INCOME TAX OFFICER, WARD-45(1), KOLKATA & ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 13th August, 2021.

Appearance:
Mr. Ananda Sen Adv.
...for the Petitioner.
Mr. S. N. Dutta, Adv.
..for Respondents.

The Court:-The petitioner has challenged the impugned order dated 20th December, 2011 rejecting the petitioner's application under Section 154 of the Income Tax Act, 1961 for rectification of the alleged mistake in the order dated 22nd December, 2011 passed under Section 264 of the Act on the ground that the Commissioner while disposing of the application of the petitioner under Section 264 of the Act has committed a mistake apparent from records by not taking into consideration or dealing with the issues raised by the petitioner in his order under Section 264 of the Act which has been pointed out in his application under Section 154 of the Act but when I perused the said application of the petitioner under Section 264 of the Act I found that those issues are absent and have no reference at all in the application of the petitioner under Section 264 of the Act and the petitioner has attempted to make out a new case in his application under section 154 of the Act.

Considering the facts as appeared from the records and submission of Mr. Sen, learned Counsel appearing for the petitioner and that he could not improve his application under Section 264 of the Act, which is the basis of his application, I am of the considered view that the Commissioner was perfectly justified in passing the impugned order under Section 154 of the Act rejecting the claim of the petitioner for rectification of the order passed under section 264 of the Act on the issues which were not at all the subject matter of the original application under Section 264 of the Income Tax Act, 1961.

Accordingly, I am of the considered view that the writ petitioner could not make out a case for invoking constitutional writ jurisdiction of this Court and this writ petition being WPO/138/2014 is dismissed with no cost.

(MD. NIZAMUDDIN , J.)

pkd.