



2025:DHC:2154-DB



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 28.03.2025

+

W.P.(C) 2975/2025 & CM APPL. 14092-93/2025

M/S DHANSAMRIDHI FINANCE PVT LTDPetitioner

Through: Mr N P Sahni, Mr Kumail Abbas and
Mr Gaurav, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME
TAX CIRCLE 7 (1) DELHI

.....Respondent

Through: Mr. Debesh Panda, SSC Ms. Zehra
Khan, Mr. Vikramaditya Singh, JSCs
Ms Anauntta Shankar and Ms
Yashika Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J.(Oral)

1. With the consent of the learned counsel appearing for the parties, the present petition has been heard finally.
2. The petitioner [**Assessee**] has filed the present petition impugning the rectification order dated 26.12.2024 [**impugned order**] passed under Section 154 of the Income Tax Act, 1961 [**Act**] as well as the demand notice dated 26.12.2024 [**impugned demand notice**] issued under Section 156 of the Act.
3. The impugned order seeks to amend the order dated 11.12.2018 to the extent of including interest under Section 234A of the Act for the period of four months (that is, from May, 2018 to August, 2018) on the ground that

W.P.(C) 2975/2025

Page 1 of 10



2025:DHC:2154-DB



the Assessee had delayed in filing its return of income electronically in response to the notice issued under Section 148 of the Act.

4. Although, there is no amendment to the quantum of income chargeable to tax, the Assessing Officer [AO] has sought to raise a demand of a sum of ₹29,75,729/- on account of interest under Section 234A of the Act and has issued the impugned demand notice accordingly amending the notice of demand issued along with the reassessment order dated 11.12.2018.

FACTUAL CONTEXT

5. The Assessee had filed its original return of income under Section 139(1) of the Act in respect of assessment year [AY] 2011-12 on 30.09.2011 declaring a total income of ₹28,22,781/-. The AO had reasons to believe that the income of the Assessee had escaped assessment and accordingly issued a notice dated 31.03.2018 under Section 148 of the Act calling upon the Assessee to file its return of income.

6. The Assessee filed its return of income electronically reiterating its total income as ₹28,22,781/-, as was declared in the original return of income filed on 30.09.2011. The AO proceeded to reassess the income and disallowed an amount of ₹22,37,61,000/- under Section 68 of the Act. Accordingly, the Assessee's total income was determined at ₹22,65,83,780/- (₹28,22,780/- plus ₹22,37,61,000/-). The reassessment order also indicated that the "*interest under Sections 234A, 234B, 234C and 234D, if any, has been charged*". The reassessment order was accompanied by an Income Tax Computation Form (I.T.N.S. 150) which clearly indicated that the interest charged under Section 234A was zero.



2025:DHC:2154-DB



7. Thereafter on 12.12.2024, the AO issued a show cause notice calling upon the petitioner to show cause why a rectification order should not be passed for the following reason:

“2. In response to notice u/s 148, the assessee company filed its Return of Income on 13.09.2018 declaring therein total income of Rs. 28,22,780/-. Since, the assessee company has filed return after the expiry of 30 days from the date of service of notice issued u/s 148 of the Act, the assessee is required to pay interest u/s 234A of the Act for 4 months (may18 to August18).”

8. Thereafter on 26.12.2024, the AO passed an order under Section 154 read with Section 143(3)/147 of the Act holding that the Assessee was required to pay interest under Section 234A of the Act for the period of four months. The mistake in this regard, which required rectification, was apparent from the record, The AO directed issuance of revised demand in Form ITNS-150 and accordingly issued the impugned demand notice.

REASONS & CONCLUSION

9. The Assessee contends that the show cause notice dated 12.12.2024 whereby proceedings under Section 154 of the Act were instituted was barred by limitation as the same was issued after a lapse of four months from the date on which the reassessment order was passed along with the notice of demand.

10. Mr. Panda, the learned counsel appearing for the Revenue countered the aforesaid submissions. He stated that there was no amendment in the assessment order dated 11.12.2018 whereby the Assessee's income was assessed at ₹22,65,83,780/-. He submitted that the amendment was carried out only in Form ITNS-150 issued under Section 156 of the Act



2025:DHC:2154-DB



accompanying the assessment order. He submitted that the filing of the computation in the said form was a ministerial exercise and therefore the same could be rectified at any stage. He also relied upon the decisions of the Supreme Court in *Samarendra Nath Sinha & Anr. v. Krishna Kumar Nag: 1966 SCC OnLine SC 29* and *Lakshmi Ram Bhuyan v. Hari Prasad Bhuyan & Ors.:(2003) 1 SCC 197* in support of his contentions. He submitted that the controversy was essentially akin to variation between a judgment and a decree drawn up pursuant thereto and any such discrepancy could be corrected by exercise of the inherent powers of the court under Section 151 of the Code of Civil Procedure, 1908 [CPC].

11. At this stage, it would be relevant to refer to Sections 154 of the Act. The same is set out below:

“Rectification of mistake.

154. (1) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may,—

(a) amend any order passed by it under the provisions of this Act ;

(b) amend any intimation or deemed intimation under sub-section (1) of section 143;

(c) amend any intimation under sub-section (1) of section 200A;

(d) amend any intimation under sub-section (1) of section 206CB.

(1A) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and



2025:DHC:2154-DB



decided.

(2) Subject to the other provisions of this section, the authority concerned—

- (a) may make an amendment under sub-section (1) of its own motion, and
- (b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee or by the deductor or by the collector, and where the authority concerned is ⁶¹[the Joint Commissioner (Appeals) or] the Commissioner (Appeals) by the Assessing Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee or the deductor or the collector, shall not be made under this section unless the authority concerned has given notice to the assessee or the deductor or the collector of its intention so to do and has allowed the assessee or the deductor or the collector a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or the collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or the collector.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or the collector, the Assessing Officer shall serve on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.



2025:DHC:2154-DB



(8) Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,—

- (a) making the amendment; or
- (b) refusing to allow the claim.”

12. Section 154(1) of the Act empowers an income tax authority to amend any order passed by it under the provisions of the Act; to amend any intimation or deemed intimation under sub-section (1) of Section 143 of the Act; to amend any intimation under sub-section (1) of Section 200A of the Act; and to amend any intimation under sub-section (1) of Section 206CB of the Act.

13. It is apparent that the AO had initiated the proceedings under Section 154 of the Act on the premise that there was an order which required to be amended under Section 154(1)(a) of the Act. The show cause notice dated 12.12.2024 calling upon the petitioner to show cause why rectification order not be passed clearly indicates the subject of the notice as “*proceedings under Section 154 – Notice*”. Thus, Mr Panda’s contention that the impugned order was not passed, under Section 154 of the Act but in exercise of an inherent power cannot be readily accepted. The impugned order also expressly indicates that it is an order under Section 154 of the Act.

14. The show cause notice dated 12.12.2024 has been issued beyond the period of four years from the date of reassessment order dated 11.12.2018. Sub-section (7) of Section 154 of the Act proscribes making any amendment



2025:DHC:2154-DB



under Section 154 of the Act after expiry of the period of four years. Thus, clearly, the show cause notice dated 12.12.2024 and the impugned order are barred by limitation. Therefore, neither the notice nor the impugned order can be sustained. Consequently, the impugned demand is liable to be set aside.

15. As noted above, it was contended on behalf of the Revenue that the statement of computation of income assessed and the demand raised could not be construed as part of the assessment order. On the aforesaid premise, it was contended that the act of setting out the computation of tax in the said form (Form ITNS-150) is a ministerial exercise and any error in recording the said figures could be corrected at any stage. The said contentions are unpersuasive. We are also unable to accept that the analogy of a variation in a judgment and a decree would be apposite in case of an order rectifying the computation of demand.

16. Plainly, Form ITNS-150, which sets out the quantum of tax determined to be payable by an Assessee is an order under Section 143(3) of the Act. In this regard, it is relevant to refer to the following observations made by the Supreme Court in *Kalyankumar Ray v. Commissioner of Income Tax, West Bengal-IV, Calcutta: 1992 Supp (2) SCC 424*:

“6. ..The statute does not in terms require the service of the assessment order or the other form on the assessee and contemplates only, the service of a notice of demand. It seems that while the "assessment order" used to be generally sent to the assessee, the other form was retained on file and a copy occasionally sent to the assessee. **I.T.N.S. 150 is also a form for determination of tax payable and when it is signed or initialled by the I.T.O., it is certainly an order in writing by the I.T.O. determining the tax payable within the meaning of Section 143(3).** It may be, as stated in CIT v. Himalaya Drug Co.



2025:DHC:2154-DB



(All) only a tax calculation form for departmental purposes as it also contains columns and code numbers to facilitate computerization of the particulars contained therein for statistical purposes **but this does not detract from its being considered as an order in writing determining the sum payable by the assessee.** We are unable to see why this document, which is also in writing and which has received the imprimatur of the I.T.O., should not be treated as part of the assessment order in the wider sense in which the expression has to be understood in the context of Section 143(3). There is no dispute in the present case that the I.T.O. has signed the form I.T.N.S. 150. We, therefore, think that the statutory provision has been duly complied with and that the assessment order was not in any manner vitiated.

[emphasis added]

17. In view of the aforesaid authoritative pronouncement, there can be no cavil that Form ITNS-150 is an order in writing determining the sum payable by an Assessee.

18. Any amendment to Form ITNS-150 would clearly fall within the scope of an amendment as contemplated under Section 154(1)(a) of the Act. Thus, in terms of sub-section (7) of Section 154 of the Act, no amendment of such an order can be made after expiry of four years from the date of the said order.

19. The record also does not support the contention that the impugned order has not been passed under Section 154 of the Act. This is so because the impugned order was passed pursuant to a show cause notice issued in respect of proceedings under Section 154 of the Act and the impugned order expressly indicates that it has been passed under Section 154 of the Act read with Section 143(3) /147 of the Act.

20. We are also not persuaded to accept that the figure of interest under



2025:DHC:2154-DB



Section 234A of the Act, which is sought to be corrected, was a clerical error. As noted above, the reassessment order dated 11.12.2018 expressly stated that the “interest under Section 234A, 234B, 234C and 234D, if any, has been charged”. The AO had signed the assessment order. Thus, confirming that the interest chargeable under any of the aforesaid Sections, had been charged. The Form ITNS-150 was also signed by the AO and the same indicated that the interest amounting ₹6,92,90,301/- was determined as payable under Section 234B of the Act; an amount of ₹5,682/- was determined as payable under Section 234C of the Act; and the interest under Section 234A of the Act was determined as “0”. It follows that the AO was of the view that no interest under Section 234A of the Act was chargeable. This is not a case where the AO had directed the levy of interest under Section 234A of the Act and by an inadvertent error, the same was not mentioned in the computation of tax payable (in Form ITNS-150). The assessment order itself clearly specified that the interest if any had been charged. It must follow that the AO was aware of the interest that was determined as payable in the income tax computation form (Form ITNS-150).

21. It is also material to note that the Assessee disputes that any interest under Section 234A of the Act is payable. It is the Assessee’s contention that the return filed pursuant to the notice under Section 148 of the Act, was a mere reiteration of return that was originally filed. Therefore, it could not be faulted for the delay in filing its return of income. It is not necessary to examine the merits of the said contention in this proceeding, however, it is clear that the issue involved is a contentious one and the Assessee’s claim in



2025:DHC:2154-DB



this regard cannot be considered as unsubstantial which merits no consideration.

22. In view of the above, it is clear that the impugned order and the impugned demand notice had been issued beyond the prescribed period and are thus set aside.

23. The petition is allowed in the aforesaid terms. The pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 28, 2025

‘gsr’