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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision : 13.05.2025

+ **W.P.(C) 6310/2025, CM APPL. 28734/2025 & CM APPL. 28735/2025**

GAUTAM WALIA .....Petitioner

Through: Mr. V. K. Sabharwal, Mr. R. B. Gupta and Mr. Rajiv Kumar, Advocates.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI 12 & ANR. .....Respondent

Through: Mr. Punit Rai and Mr. Yojit Pareek, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (*ORAL*)

1. The petitioner has filed the present petition impugning a notice dated 07.10.2024 [**impugned notice**] issued under Section 154 of the Income Tax Act, 1961 **[the Act]** as well as the order [**impugned order**] dated 05.03.2025, under Section 154 of the Act, passed pursuant to the impugned notice.

2. The petitioner had filed his return of income for the Assessment Year **[AY]** 2019-20 on 26.10.2019, declaring a total income of Rs. 28,63,160/-, and claiming a refund of Rs. 6,21,244/-. The said return was processed under Section 143(1)(a) of the Act. An intimation dated 29.04.2020 was issued alongwith the intimation of refund of Rs. 6,42,982/-, which was

credited to the petitioner's bank account.

3. Thereafter, on 05.07.2021 the Assistant Director of Income Tax, CPC, *suo moto* rectified the intimation under Section 154 of the Act and enhanced the chargeable income to Rs. 1,00,20,780/- by disallowing certain deductions claimed under Section 36(1)(va) of the Act, without affording the petitioner any opportunity of being heard. The petitioner challenged the said decision by filing an appeal before the Commissioner of Income Tax (Appeals) [**CIT(A)**] on 17.08.2021.

4. The CIT(A), by an appellate order dated 30.07.2024, allowed the appeal and set aside the rectification order dated 05.07.2021 on the ground that the said order was passed without issuance of any notice to the petitioner. However, thereafter, the Assistant Commissioner of Income Tax [**ACIT**] issued the impugned notice and passed the impugned order under Section 154 of the Act, once again enhancing the income declared by the Assessee to Rs. 1,00,20,780/- by rectifying the earlier intimation issued under Section 143(1)(a) of the Act.

5. It is the petitioner's case that the Central Processing Centre [**CPC**] could not proceed with the rectification after the CIT(A) had set aside the said rectification order.

6. We find no merit in this contention. The petitioner's challenge before the CIT(A) was on the ground that the rectification was carried out without issuance of any notice and without affording the petitioner any opportunity to be heard. The impugned order was passed after affording the petitioner an opportunity of being heard, and therefore, the grounds on which the earlier decision had been set aside, stood addressed.

7. However, we find that there is another ground of challenge, which merits consideration. It is the petitioner's case that, while its appeal before the CIT(A) was pending, it had also filed a rectification application dated 19.11.2022 before the CPC against the intimation enhancing its income from Rs. 28,63,160/- to Rs. 1,00,20,775/-. The petitioner succeeded in this application, and by an order dated 18.05.2023, the Deputy Director of Income Tax, CPC, passed a rectification order, rectifying the intimation under Section 143(1)(a) by restoring the returned income to Rs. 28,63,160/-.

8. Clearly, the CPC cannot continue to rectify and re-rectify the intimation under Section 143(1)(a) repeatedly. This aspect has not been considered by the ACIT while passing the impugned order.

9. The learned counsel appearing for the Revenue submits that this fact was not brought to the notice of the ACIT and, therefore, the matter ought to be remanded to the ACIT.

10. In view of the above, we set aside the impugned order dated 05.03.2025 and remand the matter to the ACIT to consider the matter afresh. The ACIT shall also examine whether it can re-rectify the intimation after the same has already been rectified by the CPC.

11. The petition is disposed of in the aforesaid terms.

12. All the pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 13, 2025/KG *Click here to check corrigendum, if any*