31.03.2026
Sl No.8
Ct. No.237
S.A.

WPA 54 of 2026

Surajit Ghosh
-vs-
The Income Tax Officer, Ward-29(4), Kolkata & Ors.

Ms. Sutapa Roy Choudhury, sr. adv.
Mr. Saikat Ghoshal
Ms. Aratrika Roy
…for the petitioner
Mr. Prithu Dudhoria
Mr. Anurag Roy
…for respondents

The petitioner challenges an order dated March 25, 2022, issued by the Income Tax Officer, Ward No. 29(1), Kolkata under Section 154 read with Section 143(3) of the Income Tax Act, 1961.

Ms. Sutapa Roy Choudhury, learned senior advocate appearing for the petitioner, submits that the order dated March 25, 2022 cannot be sustained, as no notice was issued to the petitioner prior to the passing of the said order, as required under Section 154(3) of the Income Tax Act, 1961. It is further submitted that the order is barred by limitation as prescribed under Section 154(7) of the said Act. Additionally, it is argued that the document does not bear any Document Identification Number, as mandated by the circular dated August 14, 2019 issued by the Central Board of Direct Taxes, Department of Revenue.

Mr. Prithu Dudhoria, learned advocate appearing for the Revenue, submits that the writ petition has been filed after a lapse of approximately four years from the date of the impugned order. Accordingly, it is contended that the writ petition ought not to be entertained on the ground of delay.

Upon consideration, I find merit in the submissions advanced by Ms. Sutapa Roy Choudhury, learned senior advocate for the petitioner, that the impugned order dated March 25, 2022 is barred by limitation.

Section 154(7) is quoted below:

> **“154. Rectification of mistake.—**
> …
>
> (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].”

Since the order which sought to be rectified under Section 154 of the Income Tax Act, 1961, is an order dated February 25, 2015 under Section 143(3) of the Income Tax Act, 1961. The last date for passing the order should have been March 31, 2019.

It is evident that the impugned order, having been passed on March 25, 2022, is beyond the prescribed period of limitation.

Furthermore, the Department has failed to comply with the requirements of Section 154(3) of the Act by not disclosing that any prior notice was served upon the petitioner before passing the impugned order.

There is also substance in the contention that the document does not contain any Document Identification Number.

Since the order has been passed beyond the prescribed period of limitation, it suffers from a jurisdictional error. The objection regarding delay raised by the Revenue has been satisfactorily explained by the petitioner in paragraph 5 of the writ petition, wherein it is stated that the delay occurred due to the death of the petitioner's earlier learned advocate.

In view of the foregoing, the impugned order dated March 25, 2022 is set aside.

Accordingly, **WPA 54 of 2026** stands allowed. All consequential recovery proceedings initiated by the Department shall also stand set aside.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, *J.*)