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

+ **W.P.(C) 1903/2026, CM APPL. 9234/2026 & CM APPL. 9235/2026**

GAIL (INDIA) LIMITED

.....Petitioner

Through: Mr. Rohit Jain and Mr. Samarth
Choudhary, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR.

.....Respondents

Through: Mr. Gaurav Gupta, SSC with
Mr. Shivendra Singh & Mr. Yojit
Pareek, JSCs

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

04.05.2026

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1. By way of present writ petition, the petitioner has challenged the order dated 05.01.2026 passed by respondent no.1 under Section 154 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).
2. Mr. Rohit Jain, learned counsel for the petitioner at the outset submitted that the impugned order passed in exercise of the purported powers of rectification given under Section 154 of the Act of 1961 is wholly without jurisdiction and illegal on various counts.
3. He submitted that what has been rectified by the Assessing Officer vide impugned order dated 05.01.2026 is, the order dated 01.11.2021 issued by the Principal Commissioner of Income Tax as per Section 5(2) of the Direct Tax Vivad se Vishwas Act of 2020 (*hereinafter referred to as 'the*



Act of 2020’).

4. He submitted that the order which has been passed by the Principal Commissioner of Income Tax, if at all could be rectified, could be rectified by the Principal Commissioner of Income Tax himself and not by the respondent no.1.

5. He further submitted that the invocation of provision under Section 154 of the Act of 1961 is *per se* misconceived inasmuch as the order passed by the Principal Commissioner of Income Tax on 01.11.2021 was passed under the Act of 2020, which does not make Section 154 of the Act of 1961 applicable.

6. In support of the aforesaid, he relied upon a judgment of this Court rendered in the case of **Satish Kumar Dhingra v. Commissioner of Income Tax** reported in [2024] 467 ITR 574 (Del).

7. Mr. Gaurav Gupta, learned Senior Standing Counsel, on the other hand submitted that the impugned rectification order was necessitated, as the Assessing Officer came to receive an audit objection indicating therein that the amount to be paid under the scheme was wrongly calculated by the respondent at the time of issuance of certificate under the Act of 2020.

8. He further submitted that the judgment of this Court in the case of **Satish Kumar Dhingra (supra)** is distinguishable from the present case on facts.

9. Heard learned counsel for the parties and perused the record.

10. A simple look at the order dated 05.01.2026 shows that the respondent no.1 has sought to rectify an order which was passed by Principal Commissioner of Income Tax.

11. We further observe that the scheme of the Act of 2020 does not give



any power of rectification even to the Principal Commissioner of Income Tax. The provision contained under Section 5(3) of the Act of 2020 clearly provides that the amount determined and order passed under the Scheme shall be final and conclusive. Provisions of the Act of 1961 have not been made applicable by the Act of 2020.

12. The order impugned dated 05.01.2026 is clearly contrary to the provisions of the Act of 2020 and is, therefore, liable to be quashed and set aside. Similar is the view taken by this Court rendered in the case of **Satish Kumar Dhingra (supra)**.

13. The writ petition is, therefore, allowed. The order dated 05.01.2026 passed by respondent no.1 is quashed and set aside.

14. The writ petition is disposed of alongwith pending applications.

DINESH MEHTA, J.

VINOD KUMAR, J.

MAY 4, 2026/nk