

Manohar Lal Poddar vs Union Of India, Ministry Of Finance

ID: F2J-C-2285 **Court:** Patna High Court

Case: Civil Writ Jurisdiction Case No.215 of 2025 **Date:** 2025-07-07

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[Cites 31, Cited by 0]

Patna High Court Manohar Lal Poddar vs Union Of India, Ministry Of Finance on 7 July, 2025 Author: Rajeev Ranjan Prasad Bench: Rajeev Ranjan Prasad, Ashok Kumar Pandey IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case No.215 of 2025

===== Manohar Lal Poddar, Son of Late Hari Lal Poddar, Resident + P.O.-
Sanhoula, P.S.- Sanhoula, Dist.- Bhagalpur. Petitioner Versus

1. Union of India, Ministry of Finance through Assessing Officer cum Assistant Commissioner of Income Tax, Central Circle- 3, Patna.

2. Principal Commissioner, Income Tax (Central), Patna.

3. Assessing Officer, Assistant Commissioner of Income Tax, Central Circle-3, Patna. Respondents

===== Appearance : For the Petitioner : Mr. Prabhat Ranjan Singh, Advocate
Dr. Ajit Kumar Pathak, Advocate For the Respondents : Ms. Archana Sinha, Senior SC Mr. Alok Kumar, Advocate

===== CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD and HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY ORAL JUDGMENT (Per: HONOURABLE MR. JUSTICE RAJEEV
RANJAN PRASAD)

Date : 07-07-2025

Heard Mr. Prabhat Ranjan Singh, learned counsel for the
petitioner and Ms. Archana Sinha, learned Senior Standing
Counsel for the Department of Income Tax (respondents).

2. This writ application has been filed seeking the
following reliefs:-

"I. That, order passed in Revision No. PCIT (Central), Patna/Revision-264/ 100000509032/2023 dt.30.01.24 passed by Respondent No.2 may kindly be quashed and set aside. II. That, since Respondents have issued certificate in the prescribed form 5 of the Patna High Court CWJC No.215 of 2025 dt.07-07-2025 2/21

Direct Tax Vivad se Vishwas Act 2020 Act, petitioner further prays for holding that Respondent No.2 has no right to reopen a proceeding duly set at rest long back on 5.11.21, by the order of competent authority in the 1st round of litigation. III. That, Respondents may further be directed to refund Rs.4,81,087/- excess amount of disputed tax, ordered to be refunded in 1st round of litigation, with statutory interest, to be calculated from the date of issuance of certificate in Form 5 of the Direct Tax Vivad se Vishwas Act 2020, dt.5.11.21 to the day of its final disbursement in favour of petitioner. IV. That, be further held that the order contained in Form 5 of the Direct Tax Vivad se Vishwas Act 2020 has already attained finality, and as such, respondents have no other option rather to accept the order passed in 1st round of litigation under the said Act. V. That, for any other relief(s) for which petitioner is found entitled on the facts of this case and also in the eye of law.

Brief Facts of the Case

3. From the narrations present in the writ application, it appears that at one point of time, pursuant to seizure of cash amount of Rs.19.10 lakh from a collection agent of the petitioner, a warrant under Section 132(1-A) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act of 1961') was issued on 28.10.2016. In a proceeding under Section 143(3) read with Patna High Court CWJC No.215 of 2025 dt.07-07-2025 3/21 Section 153-B of the Act of 1961, an order dated 19.12.2018 was passed whereby the total income of the petitioner was assessed at Rs.18,08,450/- (excluding agriculture income for rate purpose of Rs.1,75,590/-). This was against the returned income of Rs.2,88,577/-. The authorities of the Department also found that there were unexplained income of Rs.12 lakh and unexplained investment of Rs.2,23,339/-. This led to a net tax demand of Rs.5,88,457/- for which a notice under Section 156 dated 19.12.2018 was served upon the petitioner.

4. As the petitioner disputed the assessment and approached the Appellate Forum, during pendency of the appeal, a legislation, namely, the Direct Tax Vivad se Vishwas Act, 2020 (hereinafter referred to as the 'Act of 2020') came into effect. It was a legislation providing for resolution of disputed tax and for matters connected therewith or incidental thereto. According to sub-section (2) of Section 4 of the Act of 2020, upon filing of the declaration referred to in Section 3 before the designated authority, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrear shall be deemed to have been withdrawn from the date on which certificate under sub-section (1) of Section 5 was issued by the Patna High Court CWJC No.215 of 2025 dt.07-07-2025 4/21 designated authority. By virtue of sub-section (3) of Section 5 of the Act of 2020, every order passed under sub-section (1), determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Income Tax Act or under any other law for the time being in force or under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India. The Explanation to sub-section (3) of Section 5 states as under: "5. Time and manner of payment.- (3) Explanation.&For the removal of doubts, it is hereby clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute."

5. On facts, it is an admitted position that the petitioner applied before the designated authority under the Act of 2020 and the designated authority concluded the proceeding as also issued a certificate in Form-5. A copy of the certificate in Form-5 issued on Patna High Court CWJC No.215 of

2025 dt.07-07-2025 5/21 05 November, 2021 has been brought on record as Annexure- 'P-1' to the writ application.

6. Admittedly, the petitioner paid the entire amount but the grievance of the petitioner is that since the petitioner was entitled for a refund and the Department was not refunding the excess amount of tax paid by the petitioner, the petitioner was pursuing his claim before the competent authority. In this connection, the e-mail receipts and the petitions sent by the present petitioner to the authorities of the Department have been enclosed with the writ petition as Annexure 'P-2'.

7. At this stage, the petitioner found a communication by which not only the claim of the petitioner for refund of excess amount was eventually rejected but the petitioner was also subjected to a proceeding under Section 154 of the Act of 1961 which was instituted by the Assessing Officer on 14.03.2023. The petitioner was noticed with a new demand by saying that on account of miscalculation apparent from the record, the computation of tax demand could not be calculated properly. The Assessing Officer alleged that despite the disputed tax demand already settled earlier, there are two more additional demands, totaling Rs.14,77,200/- under Section 69/69A for which tax liability will be charged at the rate of 60% under Section 115-BBE Patna High Court CWJC No.215 of 2025 dt.07-07-2025 6/21 of the Act of 1961. It will be in addition to 30% amount charged under Section 143(3) read with 153-B dated 19.12.2018. Submissions on behalf of the Petitioner

8. Learned counsel for the petitioner submits that a notice under Section 154 of the Act of 1961 was issued to the petitioner on 24.03.2023. The petitioner appeared before the Assessing Officer with proper explanation but according to him, his explanations were not considered and have been rejected mechanically. A revision preferred by the petitioner under Section 264 of the Act of 1961 also failed.

9. While assailing the order of the Assessing Officer as well as the revisional order as contained in Annexures 'P-3' and 'P-3/1' to the writ application, Mr. Prabhat Ranjan Singh, learned counsel for the petitioner submits that once a declaration under Section 5 of the Act of 2020 was issued by the designated authority under the said Act, the Assessing Officer could not have invoked his powers under Section 154 of the Act of 1961 to unsettle the order passed by the designated authority under the Act of 2020. He has submitted that the legislative intent behind bringing the Act of 2020 was to put at rest any dispute which could have been otherwise resolved in terms of the provisions of the Act of 2020. Sub-section (3) of Section 5 of the Patna High Court CWJC No.215 of 2025 dt.07-07-2025 7/21 Act of 2020 has been couched in a very wide words and a bare reading of the same would show that no matter covered by the order under sub-section (1) of Section 5 of the Act of 2020 would be reopened in any other proceeding under the Income Tax Act or under any other law for the time being in force.

10. Learned counsel has further drawn the attention of this Court towards Section 154 of the Act of 1961, particularly clause (a) of sub-section (1) of Section 154, which clearly indicates the scope and ambit of the exercise of power by the Assessing Officer under this provision. It is submitted that rectification of mistake as envisaged under clause (a) of sub-section (1) of Section 154 is limited to amending any order passed by the Assessing Officer under the provisions of the Act of 1961. By no stretch of imagination, the scope of this provision may be extended to amend an order/declaration issued by the designated authority under the Act of 2020.

11. Learned counsel has relied upon a Division Bench judgment of the Hon'ble Delhi High Court in the case of SAN Garments Manufacturing Private Limited Vs. Pr. Commissioner of Income Tax 7 and Another reported in 2024 SCC OnLine Del 9066. It is submitted that in the said case, in terms of Section 5 of the Act of 2020, the designated authority Patna High Court CWJC No.215 of 2025 dt.07-07-2025 8/21 issued a certificate in Form No.3 dated 16.10.2020 determining the balance amount payable as Rs.69,56,571/-. Thereafter, the designated authority issued a certificate in Form No. 5 in terms of Rule 7 of the Rules of 2020 under Section 5(2) read with Section 6 of the Act of 2020. The same authority, however, once again wanted to reopen the concluded settlement and for this purpose issued a fresh Form No. 3 dated 29.01.2021 which was found to be a modified version of the earlier Form No. 3 dated 16.10.2020. The Hon'ble Division Bench of the Delhi High Court held that a plain reading of the provisions of the Act of 2020 indicates that once a final certificate is issued under Section 5(1) of the Act, all disputes with regard to the 'tax arrear' stands concluded. The Hon'ble High Court, therefore, set aside the certificate dated 29.01.2021 and allowed the writ petition.

12. It is submitted that if the designated authority under the Act of 2020 could not have reopened its own order, it cannot be allowed to be argued by the respondents that an Assessing Officer under the Act of 1961 would be competent to set at naught a settlement order/reopen the proceeding, in the garb of exercise of its power under Section 154 of the Act of 1961. Patna High Court CWJC No.215 of 2025 dt.07-07-2025 9/21 Submissions on behalf of the Respondents

13. Ms. Archana Sinha, learned Senior Standing Counsel for the Department has contested the writ application. Learned Senior Standing Counsel would submit that no doubt, the petitioner paid a sum of Rs.5,88,457/- which was the disputed tax and Form-5 under the Act of 2020 was issued in this case on 05.11.2021 by the Principal Commissioner of Income Tax (Central), Patna, it would remain open for the Assessing Officer to exercise his power under Section 154 of the Act of 1961 if any error apparent on the record in computation of the disputed tax demand is found.

14. Learned Senior Standing Counsel submits that as the two additions totaling to Rs.14,77,200/- were made under Section 69/69A of the Act of 1961 for which tax liability was to be charged at the rate of 60% as per provisions of Section 115-BBE of the Act of 1961 as against 30% calculated vide order under Section 143(3) read with Section 153-B dated 19.12.2018, the Assessing Officer rightly issued notice under Section 154 on 24.02.2023.

15. Learned Senior Standing Counsel, therefore, submits that a fresh demand of Rs.8,87,283/- as against Rs.5,88,447/- is in accordance with law. Patna High Court CWJC No.215 of 2025 dt.07-07-2025 10/21

16. Learned Senior Standing Counsel has further relied upon a Central Board of Direct Taxes Circular No. 9 of 2020 dated 22.04.2020 which contains Frequently Asked Questions (in short 'FAQs'). Attention of this Court has been drawn towards Question No. 46 of the FAQs. It is submitted that the Circular empowers the Departmental authority to rectify apparent mistake in the order under Section 5 of the Act of 2020. It is her submission that the order passed by the revisional authority under Section 264 of the Act of 1961 is in accordance with law and needs no interference. Consideration

17. We have heard learned counsel for the petitioner and learned Senior Standing Counsel for the Department. The facts are admitted to the effect that there was an assessment under Section 143(3) read with Section 153-B of the Act of 1961 in which the assessment order dated 19.12.2018 was passed. The petitioner was assessed at Rs.18,08,450 (excluding agriculture income for rate purpose of Rs.175590/-) against his returned income of Rs.2,88,577/-. A demand of Rs.5,88,457/- was raised against the petitioner for which a notice under Section 156 dated 19.12.2018 was served upon the petitioner.

18. It is further admitted that the petitioner challenged the assessment and approached the Appellate Forum but during Patna High Court CWJC No.215 of 2025 dt.07-07-2025 11/21 pendency of the appeal, the Act of 2020 came into force. The petitioner applied under the scheme framed by virtue of the provisions contained under the Act of 2020 which is in the nature of a statutory scheme. The petitioner opted to avail the beneficial

scheme provided by the Act of 2020. The designated authority under the said act entertained the application of the petitioner and based on the pleadings and admission, in presence of both the parties, a certificate of closure of proceeding was issued vide Annexure 'P-1' to the writ application. The petitioner had already paid an amount which was in excess of Rs.5,88,457/-, therefore, an order of refund of Rs.4,81,087/- was issued in favour of the petitioner.

19. The dispute arose only when the petitioner pursued his claim for refund. For about one and half year, his refunds were not made available. Petitioner has brought on record his e-mails and petition dated 23.01.2023 (Annexure 'P-2'). From the pleadings, it is found that the Assessing Officer registered a proceeding under Section 154 of the Act of 1961 on 22.12.2022. This time the Assessing Officer claimed that despite the disputed tax amount already settled before, there are two more additional demands, totaling Rs. 14,77,200/- under Section 69/69A, for which tax liability will be charged at the rate of 60% under Section Patna High Court CWJC No.215 of 2025 dt.07-07-2025 12/21 115-BBE of the Act of 1961. It will be in addition to 30% amount charged under Section 143(3) read with 153-B dated 19.12.2018. It is this order of the Assessing Officer which is said to be without the jurisdiction and it has been contended that the Assessing Officer has acted beyond its authority in exercise of power under Section 154 of the Act of 1961.

20. At this stage, we reproduce Section 154 of the Act of 1961:-

"154. Rectification of mistake.- 3[(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; 4

[(b) amend any intimation or deemed intimation under sub-section (1) of section 143.] 5 [(c) amend any intimation under sub-section (1) of section 200-A;] 6 [(d) amend any intimation under sub-section (1) of section 206CB. 7 [(1-A) 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 decided.]

3. Substituted by Act 4 of 1988, S.60, for sub-S.(1) (w.e.f. 1-4-1989).

4. Substituted by Act 27 of 1999, S. 65, for Cl. (b) (w.e.f. 1-6-1999).

5. Inserted by Act 23 of 2012, S. 70 (w.e.f. 1-7-2012).

6. Inserted by Act 20 of 2015, S. 38 (w.e.f. 1-6-2015).

7. Inserted by Act 31 of 1964, S. 7 (w.e.f. 6-10-1964). Patna High Court CWJC No.215 of 2025 dt.07-07-2025 13/21 (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 8 [by the assessee, or by the deductor,] 6 [or by the collector] and where the authority concerned is the 9 [* * *] 10 [the Joint Commissioner (Appeals) or the Commissioner (Appeals)], by the 11 [Assessing Officer] also. 12 [* * *] (3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of 8 [the assessee or the deductor], 6 [or the collector] shall not be made under this section unless the authority concerned has given notice to 8 [the assessee or the deductor] 6 [or the collector] of its intention so to do and has allowed 1 [the assessee or the deductor] 2 [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. 3 [(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor, 2 [or the collector] the Assessing Officer shall make any refund which may be due to such assessee or the deductor 2 [or the collector].]

8. Substituted by Act 23 of 2012, S. 70, for certain words (w.e.f. 1-7-2012).

6. Inserted by Act 20 of 2015, S. 38 (w.e.f. 1-6-2015).

9. Certain words omitted by Act 21 of 1998, S. 65 (w.e.f. 1-10-1998).

10. Substituted by Act 8 of 2023, S. 76, for certain words (w.e.f. 1-4-2023).

11. Substituted by Act 4 of 1988, S.2, for "Income-tax Officer" (w.e.f. 1-4-1988).

12. Proviso omitted by Act 32 of 1994, S. 38 (w.e.f. 1-6-1994).

1. Substituted by Act 23 of 2012, S. 70, for certain words (w.e.f. 1-7-2012).

2. Inserted by Act 20 of 2015, S. 38 (w.e.f. 1-6-2015).

3. Substituted by Act 23 of 2012, S. 70, for sub-S. (5) (w.e.f. 1-7-2012). Patna High Court CWJC No.215 of 2025 dt.07-07-2025 14/21 (6) Where any such amendment has the effect of enhancing the assessment or reducing a refund 1 [already made or otherwise increasing the liability of the assessee or the deductor, 2 [or the collector] the Assessing Officer shall serve on the assessee or the deductor, 2 [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 4 [from the end of the financial year in which the order sought to be amended was passed]. 5 [(8) Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made 1 [by the 2 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.]"

1. Substituted by Act 23 of 2012, S. 70, for certain words (w.e.f. 1-7-2012).

2. Inserted by Act 20 of 2015, S. 38 (w.e.f. 1-6-2015).

4. Substituted by Act 67 of 1984, S. 29, for "from the date of the order sought to be amended" (w.e.f. 1-10-1984).

5. Inserted by Act 14 of 2001, S. 65 (w.e.f. 1-6-2001). Patna High Court CWJC No.215 of 2025 dt.07-07-2025 15/21

21. We would also take note of the relevant provisions such as Sections 4, 5 and 6 of the Act of 2020 as under:-

"4. Filing of declaration and particulars to be furnished.-(1) The declaration referred to in section 3 shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed. (2) Upon the filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrear shall be deemed to have been withdrawn from the date on which certificate under sub-section (1) of section 5 is issued by the designated authority.

(3) Where the declarant has filed any appeal before the appellate forum or any writ petition before the High Court or the Supreme Court against any order in respect of tax arrear, he shall withdraw such appeal or writ petition with the leave of the Court wherever required after issuance of certificate under sub-section (1) of section 5 and furnish proof of such withdrawal alongwith the intimation of payment to the designated authority under sub-section (2) of section 5.

(4) Where the declarant has initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or Patna High Court CWJC No.215 of 2025 dt.07-07-2025 16/21 otherwise, he shall withdraw the claim, if any, in such proceedings or notice after issuance of certificate under sub-section (1) of section 5 and furnish proof of such withdrawal alongwith the intimation of payment to the designated authority under sub-section (2) of section 5. (5) Without prejudice to the provisions of sub-

sections (2), (3) and (4), the declarant shall furnish an undertaking waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the tax arrear which may otherwise be available to him under any law for the time being in force, in equity, under statute or under any agreement entered into by India with any country or territory outside India whether for protection of investment or otherwise and the undertaking shall be made in such form and manner as may be prescribed. (6) The declaration under sub-section (1) shall be presumed never to have been made if, & (a) any material particular furnished in the declaration is found to be false at any stage; (b) the declarant violates any of the conditions referred to in this Act; (c) the declarant acts in any manner which is not in accordance with the undertaking given by him under sub-section (5), and in such cases, all the proceedings and claims which were withdrawn under section 4 and all the consequences under the Income-tax Act against the declarant shall be deemed to have been revived. (7) No appellate forum or arbitrator, conciliator or mediator shall proceed to decide any issue Patna High Court CWJC No.215 of 2025 dt.07-07-2025 17/21 relating to the tax arrear mentioned in the declaration in respect of which an order has been made under sub-section (1) of section 5 by the designated authority or the payment of sum determined under that section.

5. Time and manner of payment.-(1) The designated authority shall, within a period of fifteen days from the date of receipt of the declaration, by order, determine the amount payable by the declarant in accordance with the provisions of this Act and grant a certificate to the declarant containing particulars of the tax arrear and the amount payable after such determination, in such form as may be prescribed. (2) The declarant shall pay the amount determined under sub-section (1) within fifteen days of the date of receipt of the certificate and intimate the details of such payment to the designated authority in the prescribed form and thereupon the designated authority shall pass an order stating that the declarant has paid the amount. (3) Every order passed under sub-section (1), determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Income-tax Act or under any other law for the time being in force or under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India. Patna High Court CWJC No.215 of 2025 dt.07-07-2025 18/21 Explanation.-For the removal of doubts, it is hereby clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.

6. Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases.- Subject to the provisions of section 5, the designated authority shall not institute any proceeding in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of tax arrear."

22. While going through Section 154 of the Act of 1961, when clause (a) of sub-section (1) of Section 154 was being discussed, this Court called upon the learned Senior Standing Counsel for the Department to take a plea as to how on the face of the provision of Section 154(1)(a), the Assessing Officer could have initiated a proceeding in the name of rectification of an error which would have an ultimate effect of reopening an order passed by the designated authority under the Act of 2020.

23. Learned Senior Standing Counsel for the Department has agreed at the Bar that from a reading of clause (a) Patna High Court CWJC No.215 of 2025 dt.07-07-2025 19/21 of sub-section (1) of Section 154, at least this much is clear that the Assessing Officer cannot amend any order passed by the designated authority under Section 5 of the Act of 2020 but at the same time, learned Senior Standing Counsel in her endeavour to support the impugned orders submits that by virtue of the circular which contains FAQs, the Assessing Officer would be competent to reopen the order passed by the designated authority.

24. We have considered the submissions of learned Senior Standing Counsel on this point, however, we are afraid that such contention cannot be accepted by this Court. The scope and ambit of Section 154 of the Act of 1961 cannot be extended by virtue of an answer to a FAQ which has been contained in a circular issued by the Central Board of Direct Taxes. The provisions of the Act of 2020 and that of the Act of 1961 are to be construed by this Court keeping in view the legislative intendment and the scope of the provisions contained therein.

25. We are of the considered opinion that an order of assessment which was passed as back as on 19.12.2018 could not have been reopened by the Assessing Officer by registering a proceeding under Section 154 on 22.12.2022, when the Department was a party before the designated authority under the Act of 2020 and in its' presence, the designated authority Patna High Court CWJC No.215 of 2025 dt.07-07-2025 20/21 considered the matter and issued the certificate of closure of proceeding on 05.11.2021.

26. The scope of Section 154 which talks of rectification of mistake is limited to amend any order passed by the Assessing Officer under the provisions of the Act of 1961 but in no way in the garb of exercise of its power under clause (a) of sub-section (1) of Section 154 of the Act of 1961, it may be extended to sit over the order passed and the declaration issued by the designated authority under Section 5 of the Act of 2020.

27. We find from the judgment of the Hon'ble Division Bench of the Delhi High Court that in the said case when the designated authority himself wanted to reopen the proceeding by issuing a fresh Form No.-3 dated 29.01.2021, the same was set aside by the Hon'ble High Court. If the same designated authority could not have reopened its own order, it cannot be allowed to be argued by any stretch of imagination that the Assessing Officer

would be competent to unsettle the order of a designated authority. At the same time, he cannot render the order of the designated authority redundant in the eye of law by passing an order under Section 154(1)(a) of the Act of 1961 in the garb of amending the order of the Assessing Officer. Patna High Court CWJC No.215 of 2025 dt.07-07-2025 21/21

28. We are of the considered opinion that in this case the Revisional Authority has also failed to consider the aforesaid aspect of the matter and has simply endorsed the order of the Assessing Officer.

29. In result, the impugned orders as contained in Annexures 'P-3' and 'P-3/1' respectively are hereby set aside. The petitioner would be entitled for the refund which shall be made available to him within four weeks from today with statutory interest.

(Rajeev Ranjan Prasad, J) (Ashok Kumar Pandey, J) lekhi/- AFR/NAFR AFR CAV DATE Uploading Date 08.07.2025 Transmission Date