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

Date of decision: 15th October, 2026

CNR No. DLHC010503932026

+ **W.P.(C) 15467/2026 & CM APPLs. 72570/2026, 72571/2026**

DLF HOME DEVELOPERS LTD.

.....Petitioner

Through: Ms. Kavita Jha Sr. Adv., Mr. Vaibhav Kulkarni, Mr. Akash Shukla, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 74(1) DELHI & ANR.

.....Respondent

Through: Mr. Puneet Rai SSC, Mr. Ashvini Kumar JSC, Ms. Nancy Jain, Mr. Aryan Mittal, Advocates.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE DR. JUSTICE ADITI CHOUDHARY

J U D G M E N T

DINESH MEHTA, J.(ORAL)

1. By way of present writ petition, the petitioner has challenged order dated 31.08.2026, passed by the respondent No. 1 rejecting petitioner's rectification application under Section 154 read with Section 201(1) and 201(1A) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act of 1961') for the financial year 2015-16.
2. The facts of the case rather lie in a very narrow compass. By way of an order dated 22.03.2023, the Assessing Officer, had held the



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petitioner/assessee to be in default under Section 201(1)/201(1A) of the Act of 1961, alleging that it had failed to deduct the tax at source as required under Section 194I of the Act of 1961 on the payment of External Development charges paid to Haryana Urban Development Authority (HUDA).

3. It may be noted that similar orders were passed by the Assessing Officer against the petitioner for previous financial years (2013-14 and 2014-15) as well, *qua* which the petitioner had filed writ petitions before this Court.

4. Immediately two days after passing of the above referred order dated 22.03.2023, this Court vide judgment dated 24.03.2023 rendered in the case of ***DLF Homes Panchkula (P.) Ltd. v. Joint Commissioner of Income Tax (OSD)***, reported as (2023) 149 Taxmann.com 176 (Delhi) allowed a bunch of writ petitions which included the writ petitions filed by the petitioner and held that the petitioner and similar other situated petitioners cannot be held assessee in default under Section 194I of the Act of 1961 while setting aside the orders passed by the Assessing Officer.

5. Since the issue was covered in petitioner's favour, the petitioner submitted various letters requesting the Assessing Officer to drop the demand, but the same was not done and the Assessing Officer insisted upon recovery of the demand, for which the petitioner filed a formal rectification application under Section 154 of the Act of 1961 on 23.02.2026, which was rejected by the Assessing Officer on 31.08.2026 by impugned order.

6. It has been argued by Ms. Jha, learned senior counsel on behalf of petitioner/assessee that though the issue stood squarely covered in petitioner's favour by the above mentioned judgment of Delhi High Court



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which has been affirmed by Hon'ble the Supreme Court vide order dated 23.02.2024 in assessee's own case in **Joint Commissioner of Income Tax (OSD) v. DLF Homes Panchkula (P.) Ltd.**, reported as [2024] 161 taxmann.com 237 (SC) yet the Assessing Officer rejected petitioner's rectification application, inter-alia, holding that the decision of the Delhi High Court was subsequent to the date of order and hence, it did not fall within the ambit and scope of Section 154 of the Act of 1961.

7. Ms. Jha, learned senior counsel further submitted that the impugned order passed by the Assessing Officer is clearly illegal and contrary to law inasmuch as Hon'ble the Supreme Court in the case of **ACIT vs. Saurashtra Kutch Stock Exchange Ltd.**, reported as [2008] 305 ITR 227 (SC) has squarely held that non-consideration of a decision of Jurisdictional High Court or of Supreme Court is a 'mistake apparent from record' and such order can be rectified.

8. She further submitted that Hon'ble the Supreme Court in para 41 of **Saurashtra Kutch (supra)** has observed that even a subsequent judgment can be a reason to rectify an order, as the same amounts to an apparent error on the face of it.

9. At this juncture, Mr. Puneet Rai, learned Senior Standing Counsel interjected and pointed out that para 41 is not a finding or decision of Hon'ble the Supreme Court but a passing reference of the judgment of the Gujarat High Court rendered in the case of **Suhrid Geigy Ltd. v. Commissioner of Surtax**, (1999) 107 Taxman 347 Gujarat.

10. Ms. Jha, learned senior counsel further submitted that notwithstanding the aforesaid judgment, the CBDT circular no. 68 [F.No. 245/17/71-A&PAC] dated 17.11.1971 clearly postulates that even a subsequent



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judgment of the Hon'ble Supreme Court would constitute 'a mistake apparent from the record'. She argued that since the judgment of Delhi High Court has been affirmed by the Hon'ble the Supreme Court and both the judgments were placed before the Assessing Officer, it was incumbent upon him to rectify his order and to set aside the demand raised, rather than rejecting the rectification application filed by the petitioner on technical ground.

11. Mr. Rai, learned Senior Standing Counsel, on the other hand, argued that the Assessing Officer has committed no error of law in rejecting the rectification application, as the case did not fall within the parameters of Section 154 of the Act of 1961.

12. He further argued that the petitioner can file an appeal against order dated 31.08.2026 and submitted that this Court should not entertain a writ petition directly against an order passed by the Assessing Officer. He was, however, not in a position to dispute the factual and legal position, so far as the merit of the issue is concerned – that the petitioner cannot be held to be an assessee in default for not deducting tax under Section 194I of the Act of 1961 as has been held by this Court in ***DLF Homes Panchkula (supra)***.

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

14. So far as the issue as to whether the subsequent judgment which was passed by Delhi High Court in ***DLF Homes Panchkula (supra)*** constitutes an apparent error on the face of record so as to warrant rectification of the order dated 22.03.2023 is concerned, we leave this issue open, as the judgment of Hon'ble the Supreme Court which has been cited before us more particularly para No. 41, in our opinion is not an opinion or observation of Hon'ble the Supreme Court but observation of what has been



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held by the Gujarat High Court in ***Suhrid Geigy Ltd. (supra)***. And, there is no specific approval of such view. In appropriate case, such issue needs to be decided; we, therefore, leave this question open.

15. Be that as it may. Since the issue has been set at rest by this Court, the impugned order dated 22.03.2023 so also the order dated 31.08.2026 passed by the Assessing Officer being contrary to the law laid down by this Court in the judgment dated 24.03.2023 in ***DLF Homes Panchkula (supra)*** are held illegal. Since the issue is covered by the judgment of this Court, we do not deem it appropriate to ask the petitioner to undertake the formality of going before the Appellate Authority, which in our view, will be a redundant formality and inefficacious remedy.

16. For the reason stated above, the writ petition is allowed and impugned order dated 22.03.2023 so also the order dated 31.08.2026 are hereby quashed and set aside.

17. The pending applications stand disposed of.

**DINESH MEHTA
(JUDGE)**

**ADITI CHOUDHARY
(JUDGE)**

OCTOBER 15, 2026/naw