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

\+ ITA 673/2016

PR.COMMISSIONER OF INCOME TAX-08 ..... Appellant

Through: Mr.Sanjay Kumar, Adv. and Mr. Dileep Shiv Puri, Standing counsel.

versus

SC JOHNSON PRODUCTS PVT.LTD ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

<u>O R D E R</u>

% **02.11.2016**

1. Learned counsel for the appellant urges a question of law assailing the decision of Income Tax Appellate Tribunal (hereinafter referred to as "ITAT") that the assessment in the present case was finalized in respect of non-existent entity. The original assessee M/s Karamchand Appliances Private Limited; pursuant to scheme of amalgamation sanctioned on 09.10.2006 but became effective from 01.06.2005, it ceased to exist and was amalgamated with SC Johnson Products Private Limited. Apparently, the transferee did not file the return but the same was filed on behalf of the original assessee even though the entity did not exist.

2. The factum of amalgamation was brought to the notice of the Assessing Officer (AO) during the pendency of the assessment i.e. on

15.01.2007. Nonetheless the assessment was finalized in the name of the original assessee (the then non-existent entity) for the period 01.04.2006 to 31.5.2006. The assessee company's appeal was rejected, however, the ITAT allowed the appeal on the strength of decision of this court in ***Spice Entertainment Ltd. vs. Commissioner of Sales Tax in ITA No. 475-476/2011***.

3. It is urged that the point of distinction in ***Spice Entertainment*** (supra) and other judgments on the one hand and facts of this case that the original assessee filed a return even though the entity had ceased. This point of detail, in our opinion, is not relevant because that assessment order was made after the A.O. received the intimation about the amalgamation on 15.01.2007 and the issue was actually finalized on 31.12.2008. Nothing prevented the A.O. from substituting the original entity with the transferee i.e. S.C. Johnson once the intimation was received in this regard.

4. Consequently, the reasoning in ***Spice Entertainment*** (supra) and other decision relied upon by the ITAT squarely apply; no substantial question of law arises.

5. The appeal is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

NOVEMBER 02, 2016

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