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

\+ ITA 372/2016

PR. COMMISSIONER OF INCOME TAX DELHI –I ..... Appellant
Through: Mr. P. Roychaudhury, Adv.

versus

ADVANCE INDIA PROJECTS LTD (IN THE MATTER OF AMALGAMATED CO. ..... Respondent
Through: Mr. Salil Aggarwal and Mr. Ravi Pratap Mau, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 10.02.2017

The Revenue is aggrieved by the order of the ITAT which allowed the assessee's appeal on two grounds: (i) that the re-assessment notice was served upon a company which had ceased to be in existence; (ii) that before framing of re-assessment, no notice had been issued under Section 143(2) of the Income Tax Act, 1961.

The facts necessary for the purposes of this case are that the assessee at the relevant point of time was M/s Maggpie Projects Ltd. Concededly that assessee was amalgamated with the appellant, in this case i.e. M/s Advance India Projects Ltd. (in short the transferee company). For Assessment Year (AY) 2005-06, the concerned Assessing Officer (AO) issued a notice on 30.03.2012, to the original assessee. Just a day before that i.e. on 29.03.2012 this Court had approved an amalgamation scheme whereby the original assessee merged and amalgamated with the transferee company. The AO nevertheless proceeded to frame assessment under Section 147/148 of the Income Tax, 1961. The assessee, which was unsuccessful before the Appellate Commissioner, urged that the notice of the re-assessment was invalid because it was drawn on a non-existent entity and also that in the absence of a notice under Section 143(2) the assessment could not have been validly framed.

Even if this Court is to assume that the re-assessment notice were valid as is urged by the Revenue, nevertheless on the second ground the ITAT's order does not call for interference relying upon the judgment of this Court in ***Alpine Electronic Asia Pte. Ltd. vs DIT (2012)- 18 Taxman.com 246 (Del)***.

In these circumstances, no question of law arises. The appeal is, accordingly, dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

FEBRUARY 10, 2017/kk