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

+ ITA 172/2019, CM APPL. 40541/2019

PR. COMMISSIONER OF INCOME TAX-4 Appellant

Through: Mr. Zoheb Hossain, Sr. Standing
counsel for the Revenue.

versus

GENPACT INDIA (PREVIOUSLY KNOWN AS GENPACT
INFRASTRUCTURE (KOLKATA) PVT. LTD. Respondent

Through: Mr. Vishal Kalra and Mr. S. S.
Tomar, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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17.09.2019

**CM APPL. 40542/2019 (application under Section 151 CPC for
amendment of cause title)**

1. By way of this application, the respondent seeks correction of cause title in the present appeal. It is pointed out that the name of the respondent is not "Genpact India" as it is mentioned but the same is "Genpact India Pvt. Ltd".
2. The application is allowed since it is not opposed. The name of the respondent is corrected to "Genpact India Pvt. Ltd".
3. The amended memo of parties filed along with the application is taken on record.

ITA 172/2019

4. The revenue has preferred the present appeal to assail the order dated

27.04.2018 passed by the Income Tax Appellate Tribunal in ITA No. 199/Del/2015 for the assessment year 2010-11. The order passed by the Assessing Officer in the name of the predecessor of the respondent assessee, despite having notice of the said amalgamation was incompetent.

5. It is the admitted position that the Assessing Officer had notice of the said amalgamation vide a notice dated 24.01.2011 issued to the Assessing Officer. Despite that the Assessing Officer passed a draft order under Section 143 (3) read with Section 144 C of the Act on 28.02.2014 in the name of the predecessor of the amalgamated company. The Supreme Court in a recent decision in ***Principal Commissioner of Income Tax v. Maruti Suzuki India Ltd.*** [2019] 107 taxmann.com 375 (SC) has inter alia held as follows;

“33. In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in its name. The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation. Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law. This position now holds the field in view of the judgment of a co-ordinate Bench of two learned judges which dismissed the appeal of the Revenue in Spice Enfortainment on 2 November 2017. The decision in Spice Enfortainment has been followed in the case of the respondent while dismissing the Special Leave Petition for AY 2011-2012. In doing so, this Court has relied on the decision in Spice Enfortainment.”

6. In view of the aforesaid, there is no merit in the present appeal and no question arises for consideration. Hence, petition stands dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 17, 2019

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