OD-8

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
WPO 143 OF 2020

ATIBIR INDUSTRIES COMPANY LIMITED
Versus
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date : 24TH DECEMBER, 2020.

Appearance :
Mr. R. K. Murarka, Sr. Adv.
Mr. Vivek Murarka, Adv.
Mr. D. Dey, Adv.
...for the Petitioner

Mr. S. Roychowdhury, Adv.
Mr. A. Ganguly, Adv.
...for the Respondents

The Court : This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by notices under Section 148 of the Income Tax Act, 1961 and subsequent two re-assessment orders under Section 147 of the Income Tax Act, 1961.

It is the case of the petitioner that the company had merged with another company prior to the date of issuance of the notice. It is their further case that they had informed the Assessing Officer of such merger. In support of the same, Mr. Murarka, learned Senior Advocate appearing on behalf of the petitioner has relied on the Supreme Court judgement reported in (2019) 416 ITR 613 (*Principal Commissioner of Income Tax Vs. Maruti Suzuki India Ltd.*) and also on the Bombay High Court judgement reported in (2016) 386 ITR 288 (*Jitendra Chandralal Navlani And Another Vs. Union of India And Others.*).

Mr. Roychowdhury, learned Counsel appearing on behalf of the Income Tax Department has fairly submitted that the notice under Section 148 of the Income Tax Act, 1961 was wrongly issued and accordingly the orders under Section 147 of the Income Tax Act, 1961 are required to be set aside. He seeks liberty for the department to proceed in accordance with law.

In light of the above submission, the show cause notices and the assessment orders are set aside. The demand notices that have been issued are also accordingly set aside.

The writ petition being WP No.143 of 2020 stands disposed of.

Since the writ petition is disposed of without calling for affidavits, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

(SHEKHAR B. SARAF, J.)

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