ORDER SHEET

OD-12

W.P.O. No.1141 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. MARUDHAR SUPPLIERS PRIVATE LIMITED
Versus
THE PRINCIPAL COMMISSIONER OF INCOME RANGE-I & ANR.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 23rd November, 2021.

APPEARANCE:
Mr.Hemani Tiwari, Adv.
Ms.Shweta Poddar, Adv.
...for petitioner

Mr.Y.J.Dastoor, Ld A.S.G
Mr.P.K.Bhowmick, Adv.
Mr.M.N.Bandyopadhyay, Adv.
...for respondents

The Court: Heard learned advocates for the parties.

In this matter the petitioner has challenged the impugned notice dated 16th March, 2021 under section 148 of the Income Tax Act, 1961 relating to assessment year 2013-14 which has been issued in the name of Shagun Merchants Private Limited which according to the petitioner, is no more in existence and has already been merged by a scheme of amalgamation as appears from the order dated 31st October, 2019 passed by the Ministry of Corporate Affairs being Annexure-P1 to the writ petition and intimation of such merger has already been given to the Assessing Officer concerned by letter dated 27th Januray, 2020 as appears from page 21 being Annexure-P2 to the writ petition.

Petitioner submits that in view of these facts, the aforesaid impugned notice under section 148 of the Act is illegal and not sustainable in the eye of law.

Mr. Bhowmick, learned advocate appearing for the respondents is not in a position to contradict the aforesaid allegations of the petitioner which are substantiated by record.

Considering the submission of the parties and relevant records, I am of the view that keeping this writ petition pending and calling for affidavit will be a futile exercise and interest of justice will be served if the impugned notice is set aside with liberty to the Assessing Officer concerned to issue a fresh notice in accordance with law.

Accordingly, this writ petition being WPO No.1141 of 2021 is disposed of by setting aside and quashing the impugned notice dated $16^{th}$ March, 2021.

Setting aside the impugned notice will not prevent the Assessing Officer concerned from issuing a fresh notice in accordance with law.

Since the writ petition has been disposed of at the motion stage without calling for affidavits, allegations contained in the writ petition are deemed to have been denied by the respondents.

(MD. NIZAMUDDIN, J.)

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