IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3562 OF 2019

Vahanvati Consultants Pvt. Ltd. ….Petitioner

V/s.

Income Tax Officer – 7 (2) (1), Mumbai & Ors. ….Respondents

WITH
WRIT PETITION NO.3556 OF 2019

Vahanvati Consultants Pvt. Ltd. ….Petitioner

V/s.

Assistant Commissioner of Income Tax
2 (3) (2) and Ors. ….Respondents

Mr. Madhur Agrawal i/b. Mr. Atul K. Jasani for petitioner.
Mr. Suresh Kumar for respondents.

CORAM : K.R. SHRIRAM &
M.S. KARNIK, JJ.
DATED : 22nd SEPTEMBER 2021

P.C. :

WRIT PETITION NO.3562 OF 2019

1 In this petition, petitioner is praying for setting aside the show cause notice dated 31st March 2019. It is petitioner's case in nutshell, that the notice under Section 148 of the Income Tax Act, 1961 (the Act) has been issued to a non existing company and therefore, as held by this Court as well as the Apex Court in various judgments, the notice is bad in law.

2 There was another entity by the name ECD Electrons and Electrolysis Pvt. Ltd. which was merged with petitioner. Even in that case, notice has been issued to ECD Electrons and Electrolysis Pvt. Ltd and this

Court in its order dated 11th August 2021 in Writ Petition No.2828 of 2019 (*Vahanvati Consultants Pvt. Ltd. V/s. Asst. Commissioner of Income Tax, Central Circle – 2 (1) (2), Mumbai and Ors.*) held that the notice issued and the consequent order passed in that order were bad and had set aside the same. Mr. Agrawal states that this Court in Writ Petition No.2742 of 2019 by judgment dated 10th August 2021 (*Alok Knit Exports Limited V/s. The Deputy Commissioner of Income Tax, Circle 6 (1) (1) and Ors.*) also held that the notice issued to a non existent company is bad in law.

3 Mr. Suresh Kumar states that he had appeared in Writ Petition No.2828 of 2019 where the same petitioner was involved.

4 In the circumstances, the notice dated 31st March 2019 having being issued to an entity, which had ceased to exist, is hereby quashed and set aside.

5 Petition disposed.

<u>WRIT PETITION NO.3556 OF 2019</u>

6 The order passed above in Writ Petition No.3562 of 2019 will be applicable in this case in its entirety except that the merged entity, to which the notice was issued, is Safari Mercantile Pvt. Ltd.

7 Therefore, in this petition also the notice dated 31st March 2019 is quashed and set aside.

8 Petition disposed.

(M.S. KARNIK, J.) **(K.R. SHRIRAM, J.)**