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ORDER SHEET

WPO 1255 of 2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ASHIKA GLOBAL SECURITIES PRIVATE LIMITED
Vs
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 14th March, 2022

(Via Video Conference)

Mr. Arun Kumar Upadhyay,
Mrs. Shobha Upadhyay,
Mr. Sunil Prasad Karan, Advs.
...for the petitioner
Mr. Aryak Dutt, Adv.
...for the respondents

The Court: Heard the learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 30th June, 2021 relating to assessment year 2013-2014 under Section 148 of the Income Tax Act, 1961 in the name of transferor company on the ground that the impugned notice has been issued in the name of the company which has already been amalgamated on 12th September, 2018 with retrospective effect from 1st April, 2016 and the department has been intimated about this amalgamation which is matters of record and such notice in the name of a non-existing company is not tenable in the eye of law since information of such amalgamation has already given to the respondent on 20th November, 2018.

In support of his contention Mr. Upadhyay, learned advocate appearing for the petitioners has relied on a decision of the Hon'ble Gujarat High Court in the case of ***Takshashila Realties Pvt. Ltd. Versus Dy Commissioner of Income Tax*** reported in 2016 SCC OnLine Guj 6462 and specifically relies on Paragraph 10 of the said judgement and also my own order dated 2nd August, 2021 in ***WPA 1791 of 2020 (Brubeck Resources Pvt. Ltd. & Anr. Vs. Union of India & Ors.).***

Considering the submission of the parties, I am of the view that the impugned notice dated 30th June, 2021 (Annexure P-3 to the writ petition) is not tenable in the eye of law and all further steps pursuant to the said impugned notice also are not tenable in the eye of law and the same are quashed. The writ petition is allowed and the impugned notice is quashed solely on the ground that the impugned notice was issued in the name of non-existing company. However, quashing of this notice will not prevent the respondents from issuing any fresh notice in accordance with law.

Since no affidavits have been called for, allegations made in the writ petition are deemed to have been denied by the respondents.

Accordingly, WPO NO. 1255 of 2022 is disposed of.

(MD. NIZAMUDDIN, J.)

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