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ORDER SHEET
WPO/2418/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

FAIR AND FAITH CONSULTANTS PVT LTD.
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 17th August, 2022.

Mr. Arun Kumar Upadhyay,
Mrs. Shobha Upadhyay, Advs.
...for the petitioner
Mrs. Smita Das De, Adv.
...for the respondents

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

By this writ petition, petitioner has challenged the impugned notice dated 13th July, 2022 relating to assessment year 2017-2018 under Section 148 of the Income Tax Act, 1961 in the name of transferor company GAR PARIWAHAN PRIVATE LIMITED on the ground that the impugned notice has been issued in the name of the company which has already been amalgamated on 2nd March, 2022 with retrospective effect from 1st April, 2020 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 4th May, 2022.

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 14th March, 2022 in ***WPO 1255 of 2022 (Ashika Global Securities Pvt. Ltd. Vs. Union of India & Ors.).***

Considering the submission of the parties, I am of the view that the impugned notice dated 13th July, 2022 (Annexure P-1 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. 2418 of 2022 is disposed of.

(MD. NIZAMUDDIN, J.)

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