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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7415 OF 2021

Tin Time Consultancy Pvt. Ltd.

....Petitioner

V/s.

Additional/Joint/Deputy/Assistant

Commissioner of Income Tax/Income

Tax Officer and Ors.

...Respondents

Mr. Madhur Agarwal a/w Mr. Fenil Bhatta and Mr. Upendra Lokegaonkar i/b
Mint and Confreres for Petitioner.

Mr. Sham V. Walve for Respondents.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.

DATED : 11th JANUARY, 2022

PC. :

1. We heard Mr. Agarwal and Mr. Walve and also considered the petition and the reply. We are satisfied with Mr. Agarwal's submission that the impugned order is without jurisdiction as the same is passed against the non existing entity Agarsen Mercantile Pvt. Ltd., which had amalgamated with Tin Time Consultancy Pvt. Ltd., petitioner herein pursuant to the order dated 28th March, 2018 of the National Company Law Tribunal approving the scheme of amalgamation. As held by this court in *Teleperformance Global Services (P) Ltd. vs. Assistant Commissioner of Income Tax, Central Circle 25(1), New Delhi*¹ and various other courts, the impugned order is passed without jurisdiction. In the circumstances, petition is allowed in terms of prayer clause – (a) which reads as under :

¹ [2021] 435 ITR 725 (Bombay)

(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ order or direction under Article 226 of the Constitution of India calling for the records of the case leading to the and the passing of the impugned order (Exhibit – M) dated September 28, 2021 under section 143(3) r.w.s. 144B of the Act for the assessment year 2011-12 and after going through the same and examining the question of legality thereof quash, cancel and set aside the impugned order (Exhibit – M) dated September 28, 2021 passed under Section 143(3) read with section 254 and 144B of the Act for the assessment year 2011-12.

2. All rights and contentions of the parties are kept open.

3. Petition disposed.

(N. J. JAMADAR, J.)

(K.R. SHRIRAM, J.)