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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1119/2022

OMANSH PROPERTIES PRIVATE LIMITED SINCE AMALGAMATED WITH RANJITGARH FINANCE CO. PRIVATE LIMITED ..... Petitioner

Through: Mr.Milind Gautam, Advocate.

versus

CENTRAL BOARD OF DIRECT TAXES & ANR. ..... Respondents

Through: Ms.Mansie Jain, Advocate for Mr.Ruchir Bhatia, Advocate.

% Date of Decision: 04th July, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.28874/2022

1. Present application has been filed on behalf of the Petitioner seeking clarification of the order dated 19th January, 2022 passed by this Court to the effect that the impugned notice dated 20th April, 2021 issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') is *non-est* as it had been issued against a non-existent company that had been dissolved by an order of this Court.

2. Learned counsel for the Petitioner states that vide order dated 19th January, 2022, the present petition had been allowed and the impugned

notice dated 20th April, 2021issued under Section 148 of the Act had been quashed in terms of the judgment of this Court in ***Mon Mohan Kohli v. ACIT, 2021 SCC OnLine Del 5250.*** He states that the present petition had been taken up for hearing along with other connected matters and had been allowed on the common ground of challenge to the explanations A(a)(ii)/A(b) to the notifications dated 31st March, 2021 and 27th April, 2021 under Section 3(1) of the Relaxation Act, 2020.

3. Learned counsel for the Applicant-Petitioner states that the impugned notice had also been challenged on the ground that it had been issued against a company that had already been dissolved by an order of this Court dated 05th August, 2013 and thus the impugned notice is not maintainable. He clarifies that subsequent to its amalgamation with M/s Ranjitgarh Finance Co. Private Ltd., M/s Omansh Properties Private Limited was dissolved and a return of income under Section 139(1) of the Act for the Assessment Year 2014-15 along with intimation of the fact of amalgamation of the company had been addressed to the jurisdictional Assessing Officer with a request for cancellation of the PAN along with a copy of the order of this Court. He states that despite the Respondents knowing about the fact of the company's amalgamation, they issued the impugned notice to the non-existent entity which is not maintainable. In support of his submission, he relies on the decision of the Supreme Court in the case of ***PCIT v. Maruti Suzuki India Limited, 2019 SCC OnLine SC 928***.

4. Learned counsel for the Applicant-Petitioner states that Income Tax Officer Ward No. 19(1), Delhi has issued a letter dated 27th May, 2022 to the Petitioner stating that the notices issued under Section 148 of the Act between 01st April, 2021 to 30th June, 2021 have been held by the Supreme

Court in ***Union of India & Ors. vs Ashish Agarwal, 2022 SCC OnLine SC 543*** to be show cause notices under Section 148A(b) of the Act and initiated fresh reassessment proceedings against the amalgamated company.

5. In the opinion of this Court, the Petitioner should take all its objections in its reply to be filed before the Assessing Officer in the proceedings under Section 148A of the Act. In the event, the time for filing the reply has expired, the Petitioner is given liberty to raise additional grounds by filing a supplementary reply within a week.

6. In case, the Petitioner is aggrieved by the decision of the Assessing Officer, it shall be open to the Petitioner to challenge the same in accordance with law.

7. With the aforesaid liberty, present application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 4, 2022
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