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

+ **W.P.(C) 15178/2022**

**RAJASTHAN GLOBAL SECURITIES PVT LTD (SUCCESSOR
TO AUREOLE IMPEX PVT LTD)** Petitioner

Through: Mr.Kapil Goel, Advocate (through
Video Conferencing)

versus

**ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 19(1)
DELHI** Respondent

Through: Mr.Ruchir Bhatia, Advocate

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Date of Decision: 03rd November, 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:

C.M.No.46963/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.15178/2022 & C.M.No.46962/2022

1. Present writ petition has been filed challenging the notice dated 17th April, 2021 issued under Section 148 of the Income Tax Act, 1961 ('the Act'), notice dated 28th May, 2022 issued under Section 148A(b) of the Act as well as the order dated 27th July, 2022 passed under Section 148A(d) of the Act and the consequential notice dated 27th July, 2022 for the Assessment Year 2013-14.

2. Learned counsel for the Petitioner states that Aureole Impex Pvt. Ltd. (Transferor Company) was merged with M/s. Rajasthan Global Securities

Private Limited (Transferee Company) vide this Court's order dated 21st March, 2013 w.e.f. 01st April, 2012. He states that after amalgamation order passed by the High Court, the company stood dissolved without winding up. He submits that in view of the aforesaid merger, there was no obligation and scope under law for any income tax returns to be filed by Aureole Impex Pvt. Ltd. He states that the Petitioner- Rajasthan Global Securities Private Limited had filed its income tax return for the Assessment Year 2013-14, inclusive of the financial data/numbers of Aureole Impex Pvt. Ltd. for the relevant period, dated 30th September 2013 and scrutiny assessment under Section 143(3) of the Act was also done. He states that the then Assessing Officer had been duly informed vide letter dated 10th June, 2013, served on 01st July, 2013, that Aureole Impex Pvt. Ltd. had been amalgamated with M/s. Rajasthan Global Securities Limited. He emphasises that along with the said letter, the PAN Card issued to Aureole Impex Pvt. Ltd. had been surrendered. He, therefore, submits that the original notice dated 17th April, 2021 issued under Section 148 of the Act and the notice issued under Section 148A(b) of the Act is a nullity since it has been issued in the name of a non existing entity.

3. Issue notice. Mr. Ruchir Bhatia, learned senior standing counsel accepts notice on behalf of the Respondent-Revenue. He submits that Sections 148A(b) and 148A(d) of the Act are procedural provisions and no prejudice has been caused to the Petitioner by issuing the initial notice to the transferor company, as the final notice under Section 148 as well as the order under Section 148A(d) have been issued to the correct legal entity.

4. Having heard learned counsel for the parties, this Court is of the view that not only the notice was issued in the name of the transferor company

but the impugned order under Section 148A(d) of the Act as well as the notice under Section 148 of the Act have been issued on the PAN of the transferor company. This Court is also of the view that the primary argument advanced by the Petitioner that the transferee company had filed its return inclusive of the financial data/numbers of the transferor company has not been examined on merit inasmuch as the scrutiny assessment order dated 07th October, 2015 has not been dealt with.

5. For the aforesaid reasons, the impugned order passed under Section 148A(d) of the Act as well as the consequential notice dated 27th July, 2022 issued under Section 148 of the Act for the Assessment Year 2013-14 are set aside and the notice issued under Section 148A(b) of the Act is deemed to have been issued to the transferee company i.e. the Petitioner. In the interest of justice, the Petitioner is given liberty to file its reply/response to the notice issued under Section 148A(b) of the Act along with all the relevant documents within two weeks from today. The Assessing Officer is directed to pass a fresh order under Section 148A(d) of the Act within eight weeks thereafter in accordance with law.

6. With the aforesaid liberty and directions, present writ petition along with pending application stands disposed of. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 3, 2022/KA