03.07.2023.
PB
Sl. No.8.

WPA 9477 of 2023

BSS Real Estate LLP (LLPN: AAD-4782)
formerly known as Dare Devil Dealers
Private Limited
Vs
Income Tax Officer, Ward No.7(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das.
... For the Petitioner.
Mr. Soumen Bhattacharya.
........for the respondent.

Heard learned advocates appearing for the parties.

The affidavit of service filed in Court today be kept with the record.

By this writ petition, petitioner has challenged the impugned order dated 30th July, 2022 and notice dated 30th July, 2022 relating to assessment year 2013-14 under Section 148 of the Income Tax Act, 1961 which has been issued in the name of Dare Devil Dealers Private Limited, a private limited company which according to the petitioner is, non-existing entity since it has already been converted as LLP BSS Real Estate LLP which identification No.AAD-4782 under the LLP Act, 2008, with effect from 3rd March, 2015 and this fact of conversion was already intimated to the respondent Income Tax Authority as appears from the reply to the show cause notice dated 26th May, 2022 issued in the case of the LLP-BSS Real Estate LLP for the assessment year 2013-14 being annexure P-3 to the writ petition at page 25 as also by letter dated 10th June, 2022 which appears at page 27 being annexure P-4 to the writ petition and petitioner submits that in view of this admitted fact substantiated by record, the aforesaid impugned order is not sustainable in law and is liable to be quashed.

Learned advocate appearing for the respondent Income Tax Authority is not in a position to contradict the aforesaid allegation and the submission of the petitioner which is supported by records. However, he submits that the order of assessment under Section 147 of the Act has already been passed in the matter and the said order is an appellable order. In my considered view, the error/mistake committed by the Assessing Officer in this case is not a curable mistake under Section 292B of the Income Tax Act, 1961.

Considering the submission of the parties, this writ petition being WPA 9477 of 2023 is disposed of by quashing the impugned order dated 30th July, 2022 being annexure P-5 to the writ petition and the impugned notice dated 30th July, 2022.

However, dismissal of this writ petition will not prevent the Income Tax Authority concerned to issue any fresh notice, in the matter in accordance with law.

With these observations and directions, this writ petition being WPA 9477 of 2023 stands disposed of.

**( Md. Nizamuddin, J.)**