19.06.2023.
p.b.
Sl. No.25.

WPA 11785 of 2023

Hindustan Consultancy & Services Ltd.
Vs.
Assistant/Deputy Commissioner of Income Tax, Central Circle 1(4), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Ramesh Kr. Patodia,
Ms. Megha Agarwal.
........for the petitioner.
Mr. Amit Sharma.
........for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice dated 31st March, 2023 relating to assessment year 2016-17 under section 148 of the Income Tax Act, 1961 in the name of transferor company on the ground that the noticee has already been amalgamated on 25th November, 2019, with retrospective effect from 1st April, 2018 and that 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of such amalgamation has already given to the respondent on 4th December, 2020 yet the respondent concerned has not withdrawn the impugned notice.

In support of his contention, learned advocate for the petitioner has relied on a decision of the Gujarat High Court in the case of **Takshashila Realties Pvt. Ltd. v. Deputy 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 2nd August, 2021 in WPA 1791 of 2020 (Brubeck Resources Pvt. Ltd. & Anr. Vs. Union of India & Ors.).

Considering the submission of the parties, I am of the view that the impugned notice dated 31st March, 2023 (Annexure P-5 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. This 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 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, WPA 11785 of 2023 is disposed of.

(Md. Nizamuddin, J.)