

ORDER SHEET  
WPO/521/2023  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

KALINDI FARMS PRIVATE LIMITED  
VS  
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 20<sup>th</sup> March, 2023.

Appearance:

Mr. Subash Agarwal, Adv.

Mr. Brijesh Kumar Singh, Adv.

Ms. Devyani Sengupa, Adv.

...For the Petitioner

Mr. Om Narayan Rai, Adv.

...For the Respondents

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 1<sup>st</sup> June, 2022 relating to assessment year 2014-15 under Section 148A(b) of the Income Tax Act, 1961 in the name of transferor company on the ground that the noticee has already been amalgamated on 31<sup>st</sup> May, 2022 with retrospective effect from 1<sup>st</sup> April 2020 and 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 14<sup>th</sup> January, 2021 yet the Respondent concerned has not withdrawn the impugned notice.

In support of his contention Mr. Rai, learned advocate appearing for the petitioner has relied on a decision of the Hon'ble Gujarat High Court in the case of **Takshashila Realties Pvt. Ltd. Versus Dy Commissioner of Income Tax** reported in 2016 SCC OnLine Guj 6462 and specifically relies

on Paragraph 10 of the said judgment and also my own order dated 2<sup>nd</sup> August, 2021 in **WPA 1791 of 2020 (Brubeck Resources Pvt. Ltd. & Anr. Vs. Union of India & Ors.)**.

Considering the submissions of the parties, I am of the view that the impugned notice dated 1<sup>st</sup> June, 2022 (annexure P-5 to the writ petition) is not tenable in the eye of law and all further steps pursuant to the said impugned notices also are not tenable in the eye of law and the same are quashed. The writ petition is allowed and the impugned notices are 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 not deemed to have been denied by the respondents.

Accordingly, WPO 521 of 2023 is disposed of.

(MD. NIZAMUDDIN, J.)

