OD –9

ORDER SHEET
WPO/810/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

CEREMONY MARKETING PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 10th April, 2023.

Appearance:
Mr. Amit Agarwal, Adv.
...For the Petitioner
Mr. Amit Sharma, Adv.
...For the Respondents

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 6th April, 2022 relating to assessment year 2018-19 under Section 148 of the Income Tax Act, 1961 which is a transferor company on the grounds that the impugned notice has been issued in the name of the company which has already been amalgamated on 10th March, 2021 with retrospective effect from 1st April 2020 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.

In support of his contention Mr. Agarwal, 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 2nd

August, 2021 in **WPA 1791 of 2020 (Brubeck Resources Pvt. Ltd. & Anr. Vs. Union of India & Ors.).**

Learned advocate for the respondents in all his fairness has submitted that he has got no case and could not distinguish the aforesaid judgment of the Hon'ble Gujarat High Court on the facts and law.

Considering the submissions of the parties, I am of the view that the impugned notice dated 6th April, 2022 (annexure P-3 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. 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 in spite of revenue having notice and knowledge of non-existence of such company.

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 810 of 2023 is disposed of.

(MD. NIZAMUDDIN, J.)

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