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ORDER SHEET
WPO/1009/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

DIPLOMAT LIMITED FORMERLY KNOWN AS MUDRIKA GOODS PRIVATE LIMITED
VS
INCOME TAX OFFICER WARD 11/1 KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 12th May, 2023.

Appearance:
Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
...For the Petitioner
Mrs. Smita Das De, Adv.
Mr. Prithu Dudhoria, Adv.
...For the Respondents

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 25th July, 2022 relating to assessment year 2015-16 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 25th May, 2022 with retrospective effect from 1st 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of such amalgamation has already given to the respondent on 8th February, 2022 yet the Respondent concerned has not withdrawn the impugned notice.

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.).**

Considering the submissions of the parties, I am of the view that the impugned notice dated 25th July, 2022 (annexure P-6 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 1009 of 2023 is disposed of.

(MD. NIZAMUDDIN, J.)

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