IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3894 OF 2021

Future Corporate Resources P. Ltd.
(Formerly known as Suhani Trading
& Investment Consultants P. Ltd.) ….. Petitioner
Vs.
The Deputy Commissioner of Income
Tax Centralized Processing Centre and ors. ….. Respondents

Mr. Vipul Joshi a/w Ms.Dinkle Hariya i/b Ms. Namrata Kasale, for Petitioner.
Mr. Suresh Kumar, for Respondents.

CORAM: K.R.SHRIRAM, J &
FIRDOSH P. POONIWALLA, J.

DATED : JUNE 20, 2023

P.C. :-

1. There is no dispute that Petitioner is entitled to refund. The only controversy is in whose name the refund should be issued. According to Respondents, after the change of name of Petitioner, Petitioner ought to have filed revised returns to be entitled to a refund and therefore, a notice under Section 139(9) of the Income Tax Act, 1969 (the said Act) was also issued. Mr. Suresh Kumar submitted that Petitioner's return of income was defective.

2. We have considered the Petition and the documents annexed thereto alongwith the Affidavit in reply. We find there is

no defect whatsoever. We say this because Petitioner has filed its return of income on 30th November, 2018 for A.Y. 2018-19 in the name of Suhani Trading & Investment Consultants P. Ltd. The PAN number indicated is AALCS4222N. Petitioner changed its name from Suhani Trading & Investment Consultants P. Ltd. to Future Corporate Resources P. Ltd and also received a certificate of incorporation pursuant to change of name from the Office of Registrar of Companies, Mumbai on 11th December, 2018. On 07th January 2019, Petitioner was issued a fresh PAN card showing the changed name, i.e., Future Corporate Resources P. Ltd, but the PAN number remains unchanged. In the fresh PAN Card, the PAN Number is shown as AALCS4222N. Therefore, the name change has been reflected in the records of the Income Tax Department. Notwithstanding this, Petitioner has been issued a notice dated 23rd April, 2019 stating that the name mentioned in the return of income does not match with the name as per the PAN database and Petitioner has been advised to correct the name in the return of income as per PAN allotted to Petitioner.

3. The PAN database correction would certainly indicate what was the original name and therefore, Petitioner's name when it filed the return of income tax was the correct name as it

then existed. Therefore, there can never be a defect and notice issued under Section 139(9) was not a valid notice. If Assessing Officer had checked the data base, he would have found answer and could have avoided issuing a notice.

4. Mr. Suresh Kumar states that this will be covered by our order dated 6th May 2022 in Writ Petition No. 3739 of 2021.

5. In these circumstances, notice dated 23rd April, 2019 is hereby quashed and set aside. Respondent shall proceed in the matter further and process Petitioner's returns by 31st July 2023 as if there is no defect in the returns filed, in accordance with law.

6. Petition disposed.

(FIRDOSH P. POONIWALLA, J) **(K.R.SHRIRAM, J)**