Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 3635 of 2025

Sargam Lefins Private Limited
versus
Income Tax Officer, Ward 4(3) Kolkata & Ors.

For the petitioner	:	Mr. Avra Mazumder Ms. Alisha Das Mr. Suman Bhowmik Mr. Samrat Das Ms. Elina Dey
For the respondents	:	Mr. Tilak Mitra
Heard on	:	03.09.2025.
Judgment on	**:**	**03.09.2025**

Raja Basu Chowdhury, J (Oral):

1. Challenging the notice issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as the said Act) dated 4th April, 2024 in respect of the assessment year 2017-2018 against one Aristocrat Distributors Private Limited (hereinafter referred to as the "noticee company") which has since amalgamated with the petitioner, the instant writ petition has been filed.

2. Mr. Mazumder, learned advocate representing the petitioner at the very outset would submit that by a scheme of amalgamation which has since been sanctioned by the National Company Law Tribunal,

Kolkata Bench (hereinafter referred to as the "Tribunal") in CP No. 1505/KV/2019 vide order dated 11th March, 2024, 5 several companies stood amalgamated with the petitioner. According to Mr. Mazumder, the noticee company has been referred to in the above order as the transferor company No. 1 and the petitioner is a transferee company. In terms of the above order passed by the Tribunal, the appointed date has been fixed as 1st April, 2023. Having regard thereto, he submits that the aforesaid notice under Section 148 of the said Act, dated 4th April, 2024 for the assessment year 2017-18, is a nonstarter and should be set aside.

3. Mr. Mitra, learned advocate representing the Income Tax Department, would submit that in the instant case though a notice in form CAA-3 was served on the petitioner intimating initiation of amalgamation proceedings on 24th June, 2019 nothing further was informed to the petitioner. According to him, a notice under Section 148A(b) of the said Act was issued to the said noticee company on 8th March, 2024. Although, the amalgamation order was passed on 11th March, 2024, the noticee company did appear pursuant to the above notice and had sought for time by the communication in writing dated 23rd March, 2024.

4. Subsequently, on 4th April, 2024, the order under Section 148A(d) was passed and the notice under Section 148 was issued. Although, the petitioner had filed a writ petition challenging the above notice and the order under Section 148 of the said Act, the said writ

petition was withdrawn with liberty to proceed afresh as would corroborate from the order dated 19th June, 2024. Subsequent by the writ petition has been filed on 13th February, 2025. No case for interference has been made out. The writ petition deserves to be and should be dismissed.

5. Having heard the learned advocates appearing for the respective parties, I, prima facie, find that the noticee company had duly notified the Income Tax authorities with regard to initiation of amalgamation proceedings on 24th June, 2019. Still latter before the amalgamation proceedings was disposed of by order dated 11th March, 2024, on 8th March, 2024 a notice under Section 148A(b) of the said Act was issued in respect of the assessment year 2017-2018. It is true that the effective date for the scheme has been determined as 1st April, 2023, however, as on 8th April, 2024, the department had no option but to issue the notice in respect of the noticee company as on such date the noticee company was very much in existence, as the order of amalgamation was yet to be passed. The factum from the notice under Section 148A(b) of the said Act was not brought to the notice of the Tribunal. It is apparent from the order dated 11th March, 2024 that the petitioner or the said noticee company did not bring to the notice of the tribunal that a notice under Section 148A(b) had already been served on the noticee company. In any event, simply because the amalgamation order has been passed, the same does not take away

right of the income tax department to proceed against the transferee company since the assets and liabilities of the transferor company as would appear from the order dated 11th March, 2024, including but not limited to the liabilities, duties and obligations has been taken over and stands transferred to the petitioner. In the light of the above, though the order dated 4th April, 2024 under Section 148A(d) and the notice issued under Section 148 of the said Act for the relevant assessment year cannot be sustained against the noticee company which has since amalgamated with the petitioner, however, the right of the department to proceed against the petitioner remains intact. In the light of the above, while setting aside the order under Section 148A(d) dated 4th April, 2024 for the assessment year 2017-2018 and the notice issued under Section 148 of the said Act issued against the noticee company for the assessment year 2017-18, I grant liberty to the Income Tax Department to proceed against the petitioner.

6. With the above observations and directions, the writ petition is disposed of.
7. There shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

Sayandeep
A.R. (Court)