

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

WRIT PETITION NO.2492 OF 2024

JSW Steel Coated Products Limited

.. Petitioner

Versus

National Faceless Assessment Centre
(Assessment Unit) & Ors.

.. Respondents

**Mr.Gopal Mundhra a/w Parth Parikh, Swati Agrawal i/b
Economic Laws Practice, Advocates for the Petitioner.**

Mr.Vikas T. Khanchandani, Advocate for the Respondents.

**CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : MARCH 04, 2026**

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition challenges the order of assessment dated 23.03.2024 passed under Section 143(3) read with Section 144B, of the Income Tax Act, 1961 (for short the “**Act**”), the Notice of demand dated 23.03.2024 issued under Section 156, and the Penalty Notice dated 23.03.2024 issued under Section 274 read with Section 270A of

the Act, in respect of Assessment Year 2022-23, *inter alia*, on the ground that such notices were issued, and the impugned assessment order was passed, in the name of a non-existent entity.

3. Brief facts of the case are that the Petitioner in the present case ('JSW Steel Coated Products Limited') is a company incorporated under the Companies Act, 1956, engaged in the manufacturing of steel including special steel products. Vide Order dated 30.01.2023, the National Company Law Tribunal (NCLT) approved the scheme of amalgamation of M/s Hasaud Steel Limited ("erstwhile/transferor company") with the Petitioner, whereby the former company got amalgamated into the Petitioner. Pursuant to the NCLT Order, Form No. INC-28 for notice of order of the Tribunal was filed with the Registrar of Companies ('RoC') on 23.02.2023.

4. It is submitted by the Petitioner that pursuant to the amalgamation, the Petitioner *vide* its letter dated 02.03.2023 (annexed as Exhibit F to the Writ Petition) duly communicated the details about the amalgamation of the erstwhile/transferor company named '**Hasaud Steel Limited**' (hereinafter referred to as "**Hasaud**") to the

respective jurisdictional authorities of the Petitioner and that of ***Hasaud***.

5. Despite the fact of the amalgamation being duly communicated by the Petitioner, for A.Y.2022-23, Respondent No.1, *vide* its Notice dated 02.06.2023 (annexed as Exhibit G to the Writ Petition), initiated faceless scrutiny assessment against ***Hasaud*** on its PAN, in terms of Section 143(2) and 144B of the Act. The Petitioner filed a response to the Notice *vide* its letter dated 13.06.2023 (annexed as Exhibit H to the Writ Petition) *inter alia* stating that ***Hasaud*** has been amalgamated with the Petitioner from 01.04.2022 pursuant to a scheme of amalgamation [under the Companies Act, 2013], which had already been brought to the knowledge of the authorities *vide* letter dated 02.03.2023.

6. Respondent No.1 without considering the preliminary objection of the Petitioner that ***Hasaud*** is not in existence, proceeded with the issuance of another notice dated 27.10.2023 (annexed as Exhibit I to the Writ Petition), in the name of ***Hasaud***, in terms of Section 142(1) of Act seeking production of various accounts/documents/information. The Petitioner, thereafter, *vide* its letter dated

10.11.2023 (annexed as Exhibit J to the Writ Petition), once again requested Respondent No.1 not to proceed with the assessment proceedings in light of the fact that **Hasaud** is no longer in existence.

7. Subsequently, Respondent No. 1 issued a show cause notice dated 15.02.2024 (annexed as Exhibit P to the Writ Petition) in the name of **Hasaud**. The Petitioner *vide* its letter dated 20.02.2024 (annexed as Exhibit Q to the Writ Petition) responded to the said notice under its own name and seal. Respondent No.1, thereafter, issued another show cause notice dated 06.03.2024 (annexed as Exhibit R to the Writ Petition), again, in the name of **Hasaud**. The Petitioner, again, *vide* its letter dated 12.03.2024 [annexed as Exhibit S to the Writ Petition], responded to the said notice under its own name and seal.

8. Respondent No.1, thereafter, passed the Assessment Order on 23.03.2024 under Section 143(3) of the Act (annexed as Exhibit A to the Writ Petition) in the name of '*Hasaud Steel Limited*' for A.Y.2022-23. Further, the Notice of demand under section 156 of the Act (annexed as Exhibit B to the Writ Petition) and the notice for initiating the penalty proceedings (annexed as Exhibit C to the Writ Petition) were also issued in the name of '*Hasaud Steel Limited*'.

9. In this factual backdrop, Mr. Gopal Mundhra, the learned counsel appearing on behalf of the Petitioner contended as under:-

(a) That upon a scheme of amalgamation being sanctioned, the amalgamating company/transferor company ceases to exist in the eyes of law as held by the Hon'ble Apex Court in the case of ***Saraswati Industrial Syndicate Ltd v. CIT [1990] 53 Taxman 92 (SC)*** and ***PCIT v. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375 (SC)***. Once, such transferor company ceases to exist, it cannot fall within the definition of a 'person' as defined under Section 2(31) of the Act. Consequently, no proceedings can be conducted in respect of a 'person' which no longer exists. Thus, the notices and the impugned Assessment Order having been issued in the name of a non-existent entity, were *void-ab-initio* and bad in law. In support of this contention, Mr. Mundhra relied upon the following judicial precedents:-

- (i) ***Spice Entertainment Ltd. v. CST [(2012) 247 CTR 500 (Delhi HC)]***
- (ii) ***Alok Knit Exports Ltd. v. DCIT [WP No. 2742/2019 decided on 10th August 2021 (Bom.)]***

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- (iii) ***New Age Buildtech Private Limited v. NFAC [WP/5308 /2022 decided on 26th April 2023 (Bom.)]***
 - (iv) ***J. M. Mhatre Infra Pvt. Ltd. v. The Union of India [WPL/16514/2023 decided on 16th December 2025 (Bom.)]***
 - (v) ***Vahanvati Consultants Pvt. Ltd. v. ACIT [WP No. 3562/2019 decided on 22nd September 2021 (Bom.)]***
 - (vi) ***Godrej Projects Development Ltd. v. DCIT [WPL No. 21009/2021 decided on 27th October 2021 (Bom.)]***
 - (vii) ***CIT v. Intel Technology India (P) Ltd [(2016) 380 ITR 272 (Kar.)]***
 - (viii) ***PCIT v. Nokia Solutions & Network India (P) Ltd. [(2018) 402 ITR 21 (Del.)]***
- (b) While passing the Impugned Assessment Order, Respondent No.1 took note of the submissions of the Petitioner. However, noting the same, Respondent No.1, wrongly relied upon the decision of Hon'ble Supreme Court in the case of ***Principal Commissioner of Income Tax vs. Mahagun Realtors (P) Ltd. [(2022) SCC OnLine SC 407]***, which is not applicable to the facts and circumstances of the present case, to justify its action to proceed against a non-existent Company. The impugned Assessment Order proceeded on an incorrect understanding that amalgamation does not amount to complete

cessation of the amalgamating company's existence whereas the expression 'amalgamation' means that upon amalgamation, the corporate existence of the amalgamating company ceases, and any legal proceeding initiated in its name after that point is null and void. He further submitted that the Respondents failed to follow the settled law laid down by the Hon'ble Supreme Court in the case of ***Principal Commissioner of Income Tax, New Delhi vs. Maruti Suzuki India Ltd. [(2019) 107 taxmann.com 375]*** wherein it was held that any Assessment Order issued against a non-existent company is without jurisdiction.

10. On the other hand, Mr. Vikas T. Khanchandani, the learned counsel appearing on behalf of the Respondent, relying upon the Affidavit in Reply dated 31.07.2025, made the following submissions:-

- (a) The initiation as well as completion of the assessment proceedings were valid in law, and the assessment would not be rendered invalid merely because it was framed in the name of ***Hasaud***.
- (b) In support of the above, the learned counsel for the Revenue placed reliance on the decision of the Hon'ble Supreme Court

in ***Principal Commissioner of Income Tax vs. Mahagun Realtors (P) Ltd. [(2022) SCC OnLine SC 407]*** and the decision of Hon'ble Madras High Court in the case of ***Vedanta Limited vs. DCIT [(2021) 438 ITR 680 (Mad)]***.

- (c) The Petitioner had failed to duly and effectively intimate the fact of amalgamation to the Assessing Officer, and therefore, the proceedings could not be said to be without jurisdiction.

11. In rejoinder, Mr. Mundhra, the learned counsel appearing on behalf of the Petitioner, specifically rebutted the arguments advanced by the Respondent, in view of the facts mentioned hereinabove.

12. We have heard both the parties at length and have also perused the records produced before us and also the affidavit in reply filed by the Respondents. It is an undisputed fact that the Petitioner had made Respondent No.1 aware about the amalgamation of "*Hasaud Steel Limited*" with the Petitioner before the initiation of assessment proceedings for A.Y.2022-23 as well as during the assessment proceeding for A.Y.2022-23. Despite the aforesaid, Respondent No.1

issued the Notices under Section 142(1) in the name of **Hasaud**; proceeded to issue the Show Cause Notice in the name of **Hasaud**; and ultimately even passed the order of assessment, issued notice of demand under Section 156 and issued a penalty notice, all in the name of **Hasaud**.

13. We find that the issue regarding the invalidity of a notice issued to a non-existent entity is no longer *res integra* and is covered by the decision of the Hon'ble Supreme Court in the case of *Principal Commissioner Income Tax Vs. Maruti Suzuki India Ltd. (supra)*, wherein it was *inter alia* held as under:-

36. *In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in its name. The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation. Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law. This position now holds the field in view of the judgment of a coordinate Bench of two learned Judges which dismissed the appeal of the Revenue in Spice Enfotainment [CIT v. Spice Enfotainment Ltd., (2020) 18 SCC 353] on 2-11-2017. The decision in Spice Enfotainment [CIT v. Spice Enfotainment Ltd., (2020) 18 SCC 353] has been followed in the case of the respondent while dismissing the special leave petition for AY 2011-2012. In doing so, this Court has relied on the decision in Spice Enfotainment [CIT v. Spice Enfotainment Ltd., (2020) 18 SCC 353].*

37. *We find no reason to take a different view. There is a value which the Court must abide by in promoting the interest of certainty in tax litigation. The view which has been taken by this Court in relation to the respondent for A.Y.2011-2012 must, in our view be adopted in respect of the present appeal which relates to A.Y.2012-2013. Not doing so will only result in uncertainty and displacement of settled expectations. There is a significant value which must attach to observing the requirement of consistency and certainty. Individual affairs are conducted and business decisions are made in the expectation of consistency, uniformity and certainty. To detract from those principles is neither expedient nor desirable.*

14. We find that the decision in the case of *Mahagun Realtors (P) Ltd. (supra)* is liable to be appreciated bearing in mind the peculiar facts and circumstances of the case including the conduct of the assessee therein. It was those facts which appear to have weighed upon the Supreme Court to hold against the assessee. The present case is clearly distinguishable from the facts in the case of *Mahagun Realtors (P) Ltd. (supra)* because (i) in that case, there was no intimation by the resultant company i.e., Mahagun India Pvt. Ltd., regarding the amalgamation of Mahagun Realtors (P) Ltd. into them, to the Income Tax Authorities; (ii) the Assessment Order was made in the name of both the amalgamating company and the resultant company; and (iii) the resultant company also participated in the assessment proceeding holding itself out as the amalgamating company.

15. In the present case, however, the fact of amalgamation was duly intimated to the Respondents well before the initiation of assessment proceedings. The Petitioner had, at the very threshold, objected to the continuation of the assessment proceeding in the name of a non-existent entity and had consistently maintained such objection throughout. In this regard, we also refer to the judgment of the Hon'ble Madras High Court in the case of ***Pharmazell (India) Private Limited vs. Assistant Commissioner of Income Tax, Chennai [2024 (7) TMI 1436 (Madras High Court)]***; the judgment of the Hon'ble Delhi High Court in ***International Hospital Limited vs. DCIT Circle 12 & Ors. [TS-715-HC-2024 (DEL)]***; and a decision of this Court in ***Reliance Industries Ltd V/S P. L. Roongta [(2025) 171 taxmann.com 467 (Bombay)]*** wherein the ratio of *Mahagun Realtors (P) Ltd. (supra)* was distinguished on the ground of prior intimation of amalgamation to the Assessing Officer and the conduct of the assessee throughout the proceedings. We find that in the present case the Petitioner had duly informed the Respondents of the amalgamation and had objected to the jurisdiction at the earliest possible opportunity. Hence, the decision rendered by the Hon'ble Supreme Court in *Mahagun Realtors (P) Ltd. (supra)* is wholly inapplicable to the factual situation in the present matter.

16. We find that the reliance placed by the Respondent on the decision of the Hon'ble Madras High Court in the case of *Vedanta Limited (supra)* is also misplaced. It appears that in the case of *Vedanta Limited (supra)*, the error pertained merely to multiple changes of the name of an existing company without any change in the PAN and a corrigendum was also issued to rectify the error and the proceedings were continued. However, in the present case, the assessment has been framed in the name, and PAN, of a company which had admittedly ceased to exist upon amalgamation. The said decision in *Vedanta Limited (supra)* is therefore clearly distinguishable and does not assist the Respondents.

17. Having dealt with decision of the Hon'ble Supreme Court in the case of *Mahagun Realtors (P) Ltd. (supra.)*, and the decision of the Hon'ble Madras High Court in the case of *Vedanta Limited (supra.)*, we are of the view that Respondent No.1 has committed a jurisdictional error by issuing notices and passing the Order of Assessment in the name of a non-existent entity. It is no longer *res integra* that proceedings undertaken in the name of a non-existent entity are void. We draw support from the following:-

- (a) The judgment of the Apex Court in the case of *Saraswati Industrial Syndicate Ltd. v. CIT (supra)* which held that when two companies are merged/amalgamated and are so joined, as to form a third company or one is absorbed into one or blended with another, the amalgamating company loses its existence;
- (b) The judgment of the Delhi High Court in the case of *Spice Entertainment Ltd v. CST (supra)*, which held that once the factum of amalgamation of a company had been brought to the notice of the Assessing Officer, despite which the proceedings are continued and an Order of Assessment is passed in the name of a non-existent company, the Order of Assessment would be void;
- (c) The judgment of the Apex Court in the case of *PCIT v. Maruti Suzuki India Ltd. (supra)* which held that if despite informing the assessing officer, the jurisdictional notice was issued in the name of the erstwhile company, then the basis on which the jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approval of the scheme of

amalgamation, and participation in the proceedings by the assessee cannot operate as an estoppel against law;

- (d) Consequent to the above, this Court has consistently held that issuance of notice/order in the name of a non-existent entity is bad in law. We have recently endorsed this view in the case of ***J. M. Mhatre Infra Pvt. Ltd. (Erstwhile J M Mhatre, Partnership firm) v. UOI [WPL 16514 OF 2023 decided on 16th December 2025]*** and ***Paras Defence and Space Technologies Ltd. vs. Deputy Commissioner of Income Tax 15(1)(1) and Others [Writ Petition No. 4934 of 2022 decided on 27th January 2026]***.

18. Thus, in our view, considering the facts of the present case, on the yardstick of the aforestated well settled propositions of law, the impugned notices issued under Section 142(1), the Show Cause Notice issued on 06.03.2024, the impugned Order of Assessment passed under Section 143(3) read with Section 144B dated 23.03.2024, and the consequential notice issued raising a demand under Section 156, as well as the penalty notice issued under Section 274 read with Section 270A,

all being in the name of a non-existent entity [i.e. **Hasaud**], are void and bad in the eyes of law.

19. Hence the following order:-

- (i) The present Writ Petition stands allowed.
- (ii) The impugned Order of Assessment passed under Section 143(3) dated 23.03.2024 and the consequential notice issued raising demand under Section 156, and the notice proposing to impose penalties are all hereby quashed and set aside.

20. We clarify that we have allowed the above Writ Petition only on the ground that the notices issued under Section 142(1) as well as the Assessment Order is passed in the name of the amalgamating company which was not in existence on the date when the said notices and the order was passed. Hence this is the ground on which we set aside the order and all notices emanating therefrom. We clarify that nothing in this order shall preclude the Revenue from initiating fresh proceedings against the Petitioner (the amalgamated company), if the Revenue is so entitled to in law.

21. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

22. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]