

HC quashed assessment order as assessee-company was amalgamated with another co. during pendency of proceedings

Summary – The High Court of Delhi in a recent case of Maruti Suzuki India Ltd., (the Assessee) held that where during pendency of assessment proceedings, assessee company was amalgamated with another company and thereby lost its existence, assessment order passed subsequently in name of said non-existing entity would be without jurisdiction and deserved to be set aside

Facts

- One 'SPIL' filed its return declaring certain taxable income. The return was processed under section 143(1) and then picked up for scrutiny. Notices under section 143(2) were issued.
- Subsequently, the Court passed an order of approving the Scheme of Amalgamation by which SPIL (Amalgamating Company) was amalgamated with 'MSIL' (Amalgamated Company) with effect from 1-4-2012.
- Thereafter, assessment proceedings continued with the participation of MSIL representing SPIL in the assessment proceedings. The Assessing Officer passed the assessment order under section 143(3), read with section 144C(1) in the name of SPIL.
- The assessee filed instant appeal where one of the grounds urged was that the assessment order was without jurisdiction inasmuch as it had been passed in the name of an entity that had ceased to exist on the date of the assessment order.
- The Tribunal accepted the said plea of the assessee as a result of which the assessment order was set aside.
- On revenue's appeal:

Held

- The revenue has repeatedly brought the issue before the Court in a large number of cases where, in more or less identical circumstances, the Assessing Officer had passed the assessment order in the name of the entity that had ceased to exist as on the date of the assessment order. In many of these cases, as in the present case, the Assessing Officer, after mentioning the name of the Amalgamating Company as the assessee, mentioned below it the name of the Amalgamated Company.
- The submission of revenue that under section 292B, the successor-in-interest is precluded from raising an objection if it has participated in the assessment proceedings was negated in *Spice Infotainment Ltd. v. CIT* [2012] 247 CTR (Del.) 500 wherein it was held that once it was found that the assessment was framed in the name of a non-existent entity, it did not remain a procedural irregularity of the nature which could be cured by invoking the provisions of section 292-B.

- The legal position having been made abundantly clear, there is no hesitation in holding that impugned order passed by Tribunal does not require any interference.
- The appeal is accordingly dismissed.