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By Nidhi, Advocate



Judgment No.: 159
Dt.: 19-07-2024



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Judgment Deals With

Once an amalgamating entity ceases to exist upon an approved Scheme of Amalgamation, the Revenue cannot issue SCNs in the name of the transferor company.

Section/Rule	Section 87
Authority	Karnataka High Court
Case Name	M/s. Trelleborg India Private Limited VS State Of Karnataka
Dated	02 nd July, 2024
Citation	W.P. No.15620 of 2024

Brief facts of the case:

In terms of the Scheme of Amalgamation approved by National Company Law Tribunal (NCLT) Bengaluru Bench, M/s. Trelleborg Sealing Solutions (India) Private Limited was amalgamated resulting in the creation of a new entity M/s. Trelleborg India Private Limited, which is the petitioner herein in terms of the order dated 13.06.2017 passed by NCLT, Bengaluru Bench. The notices in Form GST DRC-01 have been issued for various tax periods have been issued to a non-existent entity, viz., M/s. Trelleborg Sealing Solutions (India) Private Limited.

Contention of the Petitioner:

After the approval of Scheme of Amalgamation by NCLT, an application for cancellation of registration of M/s. Trelleborg Sealing Solutions (India) Private Limited was made on 29.11.2021 and the final order came to be passed on 03.12.2021 in Form GST REG-19 and the effective date of cancellation of registration was stipulated as 29.11.2021. Despite the intimation of amalgamation of the Company having been made in writing, the show cause notices have been issued to M/s. Trelleborg Sealing Solutions (India) Private Limited, which is a non-existent entity.

Findings & Decision of the Court:

It is clear that once an amalgamating entity ceases to exist upon approved Scheme of Amalgamation, the question of continuing the proceedings as regards the non-existent Company cannot be permitted, in light of the legal position emanated from the decision of Apex Court in **Principal Commissioner of Income Tax, New Delhi v. Maruti Suzuki (India) Limited reported in (2020) 18 SCC 331**. Thus, the notices issued to a non-existent entity were set aside, on the premise that no proceedings could have been initiated against a non-existent Company.

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