



JUDGEMENT

No Legal Ground for SCN Against Amalgamating Company After Merger

Issued By: Delhi High Court

In Case Of: HCL Infosystems Ltd.

Order No: W.P.(C) 7391/2024

Order Date: 21st November 2024

FACTS & OBSERVATIONS

- HCL Infosystems Ltd. (Petitioner) merged with Digilife Distribution and Marketing Services Ltd. (Amalgamating Company) as per a Scheme of Arrangement approved by NCLT, effective from April 1, 2022.
- Post-merger, the Petitioner sought the cancellation of the GST registration of the Amalgamating Company and transfer of ITC.
- Despite the merger, a Show Cause Notice (SCN) and Final Order were issued in the name of the non-existent Amalgamating Company for FY 2017-2018 and FY 2018-2019.
- The Petitioner filed a writ petition challenging the validity of these notices and orders on the basis that whether Show Cause Notices and Orders can be issued to a company that has ceased to exist due to a merger?

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- The Court referred to the Supreme Court's decision in Maruti Suzuki (India) Ltd. where proceedings against a merged entity were held to be void. Noted that the Amalgamating Company, after merger, ceases to exist legally, rendering any SCN or Order in its name void ab initio.
- The Court quashed the Show Cause Notice and Final Order issued in the name of the non-existent Amalgamating Company. Held that Section 87 of the CGST Act cannot be read to allow the continuation of proceedings against a dissolved entity.
- The liabilities arising from the transactions of the Amalgamating Company post-merger would be transferred to the Amalgamated Company, and proceedings against the former entity were void.

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