

**Court No. - 9**

**Case :-** WRIT TAX No. - 505 of 2014

**Petitioner :-** Reliance Media Works Ltd.

**Respondent :-** Assistant Commissioner Of Income Tax

**Counsel for Petitioner :-** Abhinav Mehrotra

**Counsel for Respondent :-** C.S.C. It, Shubham Agrawal

**Hon'ble Pankaj Mithal, J.**

**Hon'ble Vinod Kumar Misra, J.**

Heard Sri Abhinav Mehrotra, learned counsel for the petitioner and Sri Subham Agrawal, learned counsel for the respondent.

The dispute in this petition is regarding assessment year 2009-10 and the respondent intends to tax the income of M/s. Rave Entertainment Private Limited in the hands of the petitioner.

It appears that M/s. Rave Entertainment Private Limited was assessed to tax for the assessment year 2009-10 vide order dated 19.12.2011. This order of assessment was set aside by the Commissioner of Income Tax (appeals) and was affirmed by the tribunal. The appeal of the revenue against the same to the High Court has been dismissed by us by a separate order. Thus, the assessment order came to an end.

The aforesaid Rave Entertainment Private Limited amalgamated with Adlabs Films Limited now M/s. Reliance Media Works Limited Mumbai w.e.f. 1.4.2008 as per the scheme of amalgamation duly sanctioned by the company Judge.

In view of the above amalgamation Rave Entertainment Private Limited stood dissolved and ceased to exist w.e.f. 1.4.2008. Its assets and liabilities were taken over by the successor company and its income, if any, thereafter was taxable in the hands of the successor company only.

The aforesaid Rave Entertainment Private Limited was assessed to tax earlier at Kanpur. It is admitted on record that its head office had shifted to Goregaon East, Mumbai before amalgamation and that the petitioner successor company is also based at Mumbai and it is not assessable to tax at Kanpur.

The Assistant Commissioner Income Tax at Kanpur by the impugned notice dated 31.3.2004 has called upon the petitioner to submit statement of account for the assessment year 2009-10 as there is reason to believe its income has escaped assessment.

The aforesaid notice has been challenged by means of this writ

petition on the ground that the Income Tax Authority at Kanpur had no jurisdiction to issue any such notice to the petitioner and that the notice itself is bad in law for the reason that it contains no material or any reason on the basis of which the authority can formulate any reason to believe for revising the assessment of the petitioner for the year 2009-10.

It is admitted on record that the petitioner is a regular assessee at Mumbai and was never assessed to tax at Kanpur. Therefore, ex-facie the Income Tax Authorities at Kanpur have no territorial jurisdiction to issue any notice under Section 148 of the Act for reassessment of the petitioner in accordance with Section 147 of the Act.

The controversy involved herein has been dealt with by the Apex Court in *Marshal Sons and Company India Limited Vs. Income Tax Officer 1969 (89) Taxman 619 (SC)* wherein the Apex Court had said that in such a situation assessment can always be made and is supposed to be made on the transferee company taking into account the income of both the transferor and transferee company. It means the assessment has to be made by the Assessing Authority of the transferee company which happens to be the authority at Mumbai. Therefore, the income tax authority of Kanpur has no jurisdiction to issue any notice of reassessment of the petitioner who is based at Mumbai and is assessable to tax there.

In view of the above, we quash the impugned notice dated 31.3.2014 as without jurisdiction leaving it open upon the revenue to draw the appropriate proceedings in accordance with law against the petitioner at Mumbai, if necessary.

The petition is allowed.

**Order Date :-** 5.5.2017

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