Hindoostan Mills Limited v. Deputy Commissioner of Income Tax 2(1)(1), Mumbai & Ors.

WP 1410/2022

WP 1410/2022 (High Court of Bombay, 2023-06-27) | 2023-06-27

Audit disagreement with an examined amalgamation-loss issue does not establish valid reopening.

147 | 148 | 72A

High Court of Bombay | Division Bench | Justice Dhiraj Singh Thakur | Justice Kamal Khata

Assessment years: 2014-15

Scope of this order

The reassessment failed on jurisdiction. This does not establish a universal fresh eight-year entitlement for every amalgamation.

01 FACTS OF THE CASE

The AY 2014-15 reopening concerned carried-forward amalgamation losses. Earlier section 263 proceedings for AY 2011-12 had led to verification under section 72 A and an assessment accepting losses of Rs.88,07,62,670. Revenue audit later disagreed with the fresh eight-year treatment.

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02 DISCUSSION BY THE HON'BLE COURT

The Court found no failure of disclosure and no new tangible material. The reasons arose from the existing record and revisited a matter already examined. The proposed reopening was change of opinion, not correction of an unnoticed item.

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03 JUDICIAL DECISION

The 30 March 2021 section 148 notice and 14 February 2022 rejection of objections were quashed. Further action pursuant to them was prohibited; no costs were awarded.

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04 OUTCOME / IN WHOSE FAVOUR

The reassessment failed on jurisdiction. This does not establish a universal fresh eight-year entitlement for every amalgamation.

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05 EXPERT COMMENTS

Separate the loss debate from the jurisdictional holding — The audit contested fresh eight-year availability against an unexpired balance. The Court's disposition addressed reopening of the examined record; it should not be presented as a general computation rule for all section 72 A cases.

Prior verification is central to the change-of-opinion analysis — The section 263 direction and ensuing assessment show actual examination of the amalgamation conditions and loss claim. The later disagreement did not create new tangible material or establish non-disclosure.

Keep the operative prohibition tied to these instruments — The Court prohibited action pursuant to the particular notice and objection order it quashed. That protection is not a declaration against every possible proceeding for every year.

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SOURCE & VERIFICATION

Primary High Court order - verified local repository copy

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STATUTORY SCOPE

The judgment applies the pre-2021 reassessment framework to the impugned notice. It is not current-law clearance.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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