

Principal Commissioner of Income Tax (Central) - 2 v. M/s. Mahagun Realtors (P) Ltd.

Civil Appeal No. 2716 of 2022

[2022] 4 S.C.R. 502 | 2022-04-05

Whether, on the particular scheme and conduct in this case, an assessment describing the amalgamating company as represented by its transferee was a nullity merely because the amalgamating company had ceased to exist.

170 | 153A | 143(2) | 292B | 2(31)

Two-judge bench | Uday Umesh Lalit, J. | S. Ravindra Bhat, J.

Assessment years: 2006-07

01 FACTS OF THE CASE

Mahagun Realtors Private Ltd. (MRPL), a real-estate developer, amalgamated with Mahagun India Private Ltd. (MIPL) with effect from 1 April 2006. The judgment gives two dates for the sanction order: 10 September 2007 in paragraphs 2 and 37, and 11 May 2007 in paragraphs 34 and 40. The effective date is consistent; the sanction-date discrepancy is not silently resolved here. A survey occurred on 20 March 2007 and a search of the Mahagun group on 27 August 2008. A section 153A return notice for AY 2006-07 was issued on 2 March 2009, followed by a section 276CC show-cause notice and, after the return, a section 143(2) notice. The return filed on 28 May 2010 used MRPL's name and PAN and answered the amalgamation-related business-reorganisation query as not applicable.

The assessment dated 11 August 2011 described MRPL as represented by MIPL and assessed income of Rs 8,62,85,332 after additions of Rs 6,47,00,972, as reported in paragraph 4. CIT(A) granted partial relief. The Revenue appealed and the assessee filed cross-objections before ITAT. ITAT disposed of the case on the preliminary ground that MRPL no longer existed; the Delhi High Court affirmed, relying on Maruti Suzuki. Before the Supreme Court, the Revenue argued that the assessment substantively concerned the successor and that the defect was curable under section 292B. The assessee argued invalidity under the nonexistent-entity principle and claimed prior notification of the merger. Those competing submissions must be distinguished from the Court's later assessment of the record.

Source: [reported rendition / paragraphs 1-6 / PDF pages 4, 5, 6 / judgment; reported rendition / paragraphs 7-15 / PDF pages 6, 7, 8 / party submissions; reported rendition / paragraphs 34; 37; 40 / PDF pages 22, 23, 24, 30, 31, 32 / judgment; official signed judgment / paragraphs 2-5 / PDF pages 1, 2, 3, 4 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that MRPL had ceased to exist in law upon amalgamation. It distinguished that loss of corporate identity from termination of the underlying business, assets and liabilities. Section 170 supplied the succession framework; section 394(2) of the Companies Act, 1956 and the actual amalgamation scheme transferred the liabilities to MIPL. The scheme also provided for continuation of pending proceedings against the transferee. Reviewing *Saraswati Industrial Syndicate*, *Marshall Sons*, *Spice*, *Maruti Suzuki* and other decisions, the Court held that the terms of the scheme and the facts mattered (paragraphs 16-37). Its discussion of statutory continuity did not revive MRPL's separate legal personality.

The decisive distinctions were recorded in paragraphs 33-41. For AY 2006-07, the Court found no disclosure of amalgamation of the kind made in *Spice* and *Maruti Suzuki*. MRPL continued to be held out as the assessee in the return, correspondence, proceedings and appellate documents; the return specifically failed to disclose the merger. Letters concerning other AYs did not supply the missing disclosure for this case. In contrast, proceedings against MRPL for AYs 2007-08 and 2008-09 had been quashed after amalgamation was disclosed. The assessment here expressly named the transferee as representative and attributed income to the erstwhile MRPL business after special audit. Read with the scheme and the parties' treatment of the proceedings, this was a method of expressing the successor's tax liability. Choosing a separate order for MRPL, represented by MIPL, rather than a common order for MIPL with separate transferor-wise parts, did not nullify the order in these circumstances.

The Court distinguished *Spice* and *Maruti Suzuki*; it did not overrule them. Paragraph 42 expressly makes the result dependent on the amalgamation terms and facts, rather than bare application of the corporate-dissolution provision. Participation alone is not stated as a universal cure, nor is section 292B held to validate every notice to a nonexistent entity. The long assessment-order extracts in paragraphs 38-39 describe the material and allocation method; the Supreme Court did not finally approve every addition or decide the penalty merits.

Source: [reported rendition / paragraphs 16-30 / PDF pages 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 / judgment](#); [reported rendition / paragraphs 31-37 / PDF pages 20, 21, 22, 23, 24 / judgment](#); [reported rendition / paragraphs 38-39 / PDF pages 24, 25, 26, 27, 28, 29, 30 / quoted assessment order and judicial context](#); [reported rendition / paragraphs 40-42 / PDF pages 30, 31, 32, 33 / judgment](#); [official signed judgment / paragraphs 33-37 / PDF pages 22, 23, 24, 25 / judgment](#); [official signed judgment / paragraphs 40-42 / PDF pages 30, 31, 32, 33, 34 / judgment](#)

03 JUDICIAL DECISION

The Revenue's appeal was allowed. The High Court's order was set aside and the matter restored to ITAT to hear the Revenue's appeal and the assessee's cross-objections on their merits, on issues other than nullity of the assessment order. There was no order as to costs. The Court rejected the amalgamation-based nullity objection on these facts; it did not itself finally determine the taxable additions.

Source: [reported rendition / paragraphs 41-43 / PDF pages 32, 33, 34 / judgment](#); [official signed judgment / paragraphs 41-43 / PDF pages 32, 33, 34 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the preliminary nullity issue; remaining assessment merits remanded

Appeal allowed; High Court judgment set aside; ITAT to decide remaining appeal and cross-objection issues; no costs

Validity/nullity objection decided; substantive additions left for ITAT

Fact-specific successor-assessment decision involving a return that did not disclose amalgamation and an order naming MRPL as represented by MIPL. It is not blanket authority for assessments or notices in the name of nonexistent entities and is not a section 153C decision.

Source: [reported rendition / paragraphs 43 / PDF pages 33, 34 / judgment](#); [official signed judgment / paragraphs 43 / PDF pages 34 / judgment](#)

05 AKHB REVIEW POINT

Build a merger chronology from the scheme, appointed/effective date, sanction order, filing history and each year-specific notice and response. Preserve proof that the appropriate assessing authority received a clear amalgamation intimation, and ensure returns, PAN usage and cause titles consistently identify the successor. Compare the actual assessment's wording and devolution-of-liabilities clauses before relying on Mahagun or distinguishing Maruti Suzuki. Do not present Mahagun as overruling the nonexistent-company line, as creating estoppel from participation alone, or as approving the quantum additions. The remand excluded only the nullity issue. Check the underlying file to resolve this judgment's conflicting sanction dates and quoted AY reference. Apply the historical provision appropriate to the proceeding and check subsequent treatment before reliance; no automatic mapping to the Income-tax Act, 2025 is made.

Source: [reported rendition / paragraphs 2; 34-43 / PDF pages 4, 22, 23, 24, 30, 31, 32, 33, 34 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(1A) (historical amalgamation definition as printed); 132; 132(4); 133A; 139(1); 139(5); 142(2A); 159; 276CC; 41(1); 72A

PROVISION-SPECIFIC SCOPE

1.

Section: 170(1)-(3)

Role: Succession framework considered by the Court; quoted in paragraph 16, footnote 8

Paragraphs: 16

2.

Section: 153A; 143(2)

Role: Search-assessment return notice and scrutiny notice in the facts; not a ruling under section 153C

Paragraphs: 3; 34; 40

3.

Section: 292B

Role: Revenue's curability argument and discussion of Spice/Maruti Suzuki; no universal holding that substantive jurisdictional defects are curable

Paragraphs: 7; 14; 23; 31; 33-42

4.

Section: 2(31)

Role: Assessee's submission that the dissolved transferor was no longer a person

Paragraphs: 12

5.

Section: 2(1A), as printed

Role: Historical amalgamation definition quoted and used in the Court's analysis; do not read this source label as a certification of later statutory numbering

Paragraphs: 21; 30; 32

6.

Section: 132; 132(4); 133A; 142(2A)

Role: Search, statement, survey and special-audit factual context; quantum/penalty merits not finally adjudicated

Paragraphs: 3; 38-40

OTHER LEGISLATION CONSIDERED

1.

Act: Companies Act, 1956

Sections: 394(1); 394(2); 394(4); 481

Role: Amalgamation, transfer of liabilities and distinction from dissolution/winding up

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported rendition)

Identified source rendition: 34 PDF pages; SHA-256
c90418a136c658a6d0439f5aa8cd75301eeacef96989e8a24827406c23994495. Original bytes preserved.

Open cited source rendition

Judicial text is bounded to reported physical pages 4-34, paragraphs 1-43. Pages 1-3 are editorial headnote, references and preface; no neighbouring judgment is included.

Both renditions give 10.09.2007 in paragraphs 2 and 37 and 11.05.2007 in paragraphs 34 and 40 for the amalgamation order. The consistent appointed date is 01.04.2006. The original sanction order was not independently obtained.

Paragraph 40 item 5 describes July 2010 letters as preceding the 28 May 2010 return, an apparent chronological inconsistency. The note preserves the dates without adopting that sequence.

The quoted assessment text in paragraph 39 concludes with AY 2005-06, whereas the preceding table assigns MRPL's Rs 6,05,71,018 to AY 2006-07. The appeal's year is supported by paragraphs 3 and 34; quoted years are not additional appeal years.

The printed historical definition uses section 2(1A). Some passages also interchange transferor/transferee or amalgamating/amalgamated terminology. The analysis is anchored to MRPL as the ceased transferor and MIPL as the continuing transferee, expressly identified in paragraphs 2 and 33-37; no altered PDF or silent statutory correction is supplied.

Paragraph 3 prints MAPL once while the notice and return are otherwise discussed as MRPL; the note does not create a third entity from this isolated source label.

Tables on reported pages 28-29 are absent from text extraction and were visually inspected. Their amounts belong to reproduced assessment material; they are not final Supreme Court quantum determinations.

Spice and Maruti Suzuki are distinguished, not overruled. The Revenue's section 292B argument is not represented as a blanket curability holding.

The reported appeal number and the original SLP number are kept separately. Index neutral citation 2022INSC389 is metadata-only and unverified.

SCR citation verified on physical PDF page 1. The index additionally records 2022INSC389; this neutral citation is not printed in either inspected rendition and is not represented as independently verified.

The notice and return in the appeal concern AY 2006-07 (paragraphs 3 and 34). AYs 2007-08 and 2008-09 are separate proceedings discussed to distinguish disclosure of amalgamation. Other years appear in quoted assessment material, tables and precedent. Paragraph 39's quoted AO passage says AY 2005-06, whereas its preceding table assigns the MRPL figure to AY 2006-07; the quotation is not treated as changing the appeal's AY.

Civil Appeal 2716/2022 is printed on the SCR cover and jurisdictional preface. The official original leaves the civil appeal number blank and identifies the originating SLP (C) 4063/2020.

STATUTORY SCOPE

Historical assessment and amalgamation provisions as examined by the judgment; section 2(1A) is preserved as a source-specific historical label, not certified as later numbering

No automatic mapping to the Income-tax Act, 2025; no independent audit of later business-reorganisation or assessment amendments.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 502 - PDF pages: 34](#)

SHA-256: c90418a136c658a6d0439f5aa8cd75301eeacef96989e8a24827406c23994495

[official signed judgment - PDF pages: 34](#)

SHA-256: e21a26ae5628495ad0cd681558d2a11a3e413696f8c4172d96c2829c4b90437c

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