BOM HC: Quashes Fresh Notices Issued To Reopen Completed Assessments U/S 170A(2)(A)

Facts of the Case

The Assessee filed its return of income for AY 2023–24 which was processed u/s 143(1). Pursuant to an amalgamation approved by NCLT (effective 01.04.2021), the Assessee filed modified return u/s 170A on 23.01.2025. The time limit for issuance of notice u/s 143(2) expired on 30.06.2024 and the assessment became time-barred on 31.03.2025. Despite the same, the Assessing Officer (AO) issued Notice under:

- Section 143(2) dated 23.06.2025
- Section 142(1) dated 21.01.2026

The Assessee filed a writ petition challenging the notices as time-barred and without jurisdiction.

Contentions of the Assessee

The Assessee argued that the assessment stood concluded on the date of filing of the modified return and u/s 170A(2)(a), the AO can only modify the concluded assessment to give effect to the amalgamation. Accordingly, issuance of notices u/ss 143(2) and 142(1) amounted to a fresh/de novo assessment, which was impermissible under law. Therefore, the notices issued by the AO were barred by limitation and beyond jurisdiction. Further, section 170A is a self-contained code which clearly restricts the scope of proceedings in cases of completed assessments.

Contentions of the Revenue

The revenue argued that filing of a modified return permits reopening of assessment for proper verification and the AO is empowered to use regular assessment mechanisms under the Act. Consequently, the notices were issued to correctly determine the income post amalgamation. Further, the Assessee's writ petition is premature, as only notices were challenged and not the final assessment.

Order of the High Court

The High Court noted the distinction between clause (a) and (b) of section 170A(2) and held that clause (a) applies where assessment is completed whereas clause (b) applies where assessment is pending. In the present case, since the assessment was already completed [since no notice u/s 143(2) was issued after the intimation was issued u/s 143(1)], therefore it is governed by section 170A(2)(a) and only modification is permitted.

Accordingly, the notices issued u/ss 143(2) and 142(1) were without jurisdiction and the AO cannot undertake a fresh assessment beyond giving effect to amalgamation. The High Court quashed both the notices and consequently the assessment order passed is set aside with the direction to the AO to pass a fresh order limited to giving effect to the modified return.

Citation:

Technoforce Solutions (I) Pvt. Ltd. v. DCIT & Ors. (Writ Petition No. 2041 of 2026)

Our Comments

The judgment provides important clarity on the scope of section 170A. It clearly establishes that filing of a modified return does not reopen a concluded assessment and the AO’s powers are restricted to implementing the reorganisation order.

This decision reinforces the principle that jurisdictional limits and statutory timelines must be strictly adhered to.