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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2410/2014**

M/S SPINTEX INDUSTRIES PVT. LTD. Petitioner
Through: Mr Siddharth Yadav & Mr Wasim
Ashraf, Advs.

versus

ASSISTANT COLLECTOR & ANR Respondents
Through: Dr. Kanchan Chawla, Adv. for R-1.
Mr Nikhil Jain, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

06.05.2015

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1. This is a writ petition which impugns the notice dated 19.03.2014 issued by respondent no.1. In the notice, the name of the defaulter has been shown as Spintex Industries Pvt. Ltd. (SIPL), which is the petitioner before this court. The notice dated 19.03.2014 also refers to the address of the petitioner, which is, 301, Harsha House, Karampura Complex, New Delhi – 110 015. It is not disputed by the counsel for respondent no.2 that the defaulter, was a company by the name of Spintex Tubes & Cones Ltd. (STCL) having its office at Bhiwari, Distt. Alwar.

2. As a matter of fact, counsel for respondent no.2 says that this notice dated 19.03.2014, is directed against STCL and not against the petitioner company.

3. The common case of the two contesting parties before me, i.e., the petitioner and respondent no.2, is that, one, Sh. Jagdish Prasad Saria, had

furnished a personal guarantee in favour of respondent no.2 for the dues owned by STCL. A copy of the guarantee is appended at pages 61 to 66 of the paper book.

4. Respondent no.1 has not filed a counter affidavit in the matter. Dr. Kanchan Chawla, who appears for respondent no.1, says that she has instructions to convey to the court that the said respondent does not wish to file a counter affidavit, in view of the fact that it is only seeking to recover the dues at the behest of respondent no.2.

5. In these circumstances, it is quite clear that the impugned notice has been directed against the wrong entity. There may be inter-connection between the two entities, but in law they are separate juridical entity. It is not the case of respondent no.2, that it wishes to lift the corporate veil.

6. Be that as it may, the facts reveal that, at the moment, the remedy, if any, which respondent no.2 may have, is against Mr. Jagdish Prasad Saria.

7. Accordingly, the impugned notice is set aside.

7.1 This direction, however, will not come in the way of respondent no.2, in taking action in accordance with law, as may be permissible against the guarantor, i.e., Mr Jagdish Prasad Saria.

8. The writ petition is, accordingly, disposed of.

RAJIV SHAKDHER, J

MAY 06, 2015

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