IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 1066 OF 2017

K. Sera Sera Digital Cinema Ltd. .. Petitioner

v/s.

Union of India & Ors. .. Respondents

Mr. Prakash Shah a/w Ms. Mona Vora, Mr. Kunal K. and Mr. Jas Sanghvi i/b Mr. Sriraj G. Menon for the petitioner
Mr. Sham Walve for respondent nos. 2 and 3

CORAM : S.V. GANGAPURWALA &
A.M. BADAR, J.J.

DATED : 27th JUNE, 2017

P.C.

1. Heard learned Counsel for both the parties. Rule. By consent of the parties, Rule made returnable forthwith.

2. Mr. Shah, the learned Counsel submits that the petitioner is a limited company, registered under the Companies Act, 1956. The respondents without issuing any notice to the petitioner, directed the respondent no.5 to attach the bank account of the petitioner, purportedly for the dues of one K. Sera Sera Ltd. The learned Counsel submits that K. Sera Sera Ltd. is a distinct legal entity. The

account of the petitioner could not have been attached for the dues of K. Sera Sera Ltd..

2. The learned Counsel for the Revenue submits that the petitioner is a subsidiary of K.Sera Sera Ltd. The two Directors of the petitioner company are also the Directors and in the management of K.Sera Sera Ltd.. They are also functioning on the same post. To protect the interest of the Revenue, the order of attachment has been passed.

3. The learned Counsel for the petitioner relies on the order passed by the Apex Court in Civil Appeal No.6928 of 2002 (*Regional Provident Fund Commissioner & Ors. Vs. ABS Spinning Orissa Ltd. and Anr.),* dated 01.10.2008.

4. We have considered the submissions canvassed by the learned Counsel for the respective parties. It is not disputed that K.Sera Sera Ltd. and the petitioner company are the two separate legal entities and registered separately under the Companies Act. It is also not disputed that the respondent does not have to recover dues from the

petitioner company and the dues recoverable by the respondent are from K.Sera Sera Ltd. Only because two of the Directors of the petitioner company are also the Directors of K.Sera Sera Ltd. that would not *ipso facto* entitle the Revenue to attach the account of the petitioner company which is a distinct separate entity.

5. The Apex Court in a case of *Regional Provident Fund Commissioner & Ors.* (supra) has observed that a subsidiary company has an independent existence as against the holding company and, therefore, is not liable to clear the provident fund dues of its subsidiary company. In the present case also, the facts are similar.

6. The learned Counsel for the Revenue submits that the Directors may co-operate and give relevant information as sought for. Mr. Shah, the learned Counsel for the petitioner states that if some information is sought from the Directors, the same would be provided as would be permissible.

7. In the light of the aforesaid conspectus of the matter, the impugned action is quashed and set aside. Rule is made absolute in

terms of prayer clauses (a) and (b).

8. The order shall be complied within two weeks from today.

(A.M. BADAR, J.) **(S.V. GANGAPURWALA, J.)**