

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2019

Coram :

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

CrI.O.P.No.23595 of 2012

and

MP.No.1 of 2012

1. M/s.Subhiksha Trading Services Limited
Rep. by its Managing Director
Mr.R.Subramanian

2.R.Subramanian Petitioners

vs.

The Deputy Registrar of Companies
Tamil Nadu, Shastri Bhavan,
26, Haddows Road,
Chennai -6. ... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, pleaded to call for the records and quash the complaint in EO.CC.No.243 of 2011 on the file of the Additional Chief Metropolitan Magistrate Court, Economic Offences-I, Egmore, Chennai.

For Petitioners : Mr.R.Subramanian
for Prakash Goklaney
For respondents : Mr.B.Rabu Manohar

ORDER

This Criminal Original Petition is filed to quash the complaint in EO.CC.No.243 of 2011 on the file of the Additional Chief Metropolitan Magistrate Court, Economic Offences-I, Egmore, Chennai.

2. The learned counsel for the petitioners would submit that show cause notice was issued by the respondent for the financial year ended 31.03.2009 on or before 30.09.2009 in terms of Section 166 read with Section 210 of the Companies Act, 1956. Further, he would submit that the offence is punishable to pay the fine alone, as per Section 68 the limitation is only

six months, whereas the show cause notice was issued only on 27.01.2010 and the complaint filed in the month of May 2011 which is barred by limitation. Hence, the learned counsel prays to quash the complaint.

3. The learned counsel for the respondent would submit that the petitioners have not filed the returns, therefore, the respondent issued the show cause notice, the petitioners have not filed any reply or complied with the conditions mentioned in the show cause notice. Even now, the petitioners have not filed the returns for the financial year, which is continuing course of action, hence, the matter to be ceased before the trial Court. The petitioners have not made out any valid and reasonable ground to quash the petition, hence, prays for dismissal of the petition.

4. Heard the rival submissions made on both sides and perused the available records.

5. The respondent issued show cause notice dated 27.01.2010 for the financial year ended 31.03.2009, the petitioner has not filed the returns within a period of 7 days. The learned counsel for the petitioners would submit that on 26.02.2010 they sent the returns, wherein they had referred to the reply to the show cause notice dated 27.01.2010 and sent reply on 05.02.2010 itself. The petitioners have not produced the copy of the said letter or reply before the respondent. According to the respondent, the petitioners have not filed the returns. Even now, the petitioners have not filed the returns, which is continuing course of action, hence, the matter to be decided by the trial Court. Therefore, this Court is not inclined to accept the contention raised by the learned counsel for the petitioners.

6. Considering the facts and circumstances of the case, under these circumstances this Court finds it is not a fit case to invoke the provisions under Section 482 Cr.PC.

7. In the result, the criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed. The petitioners are at liberty to take all the defence before the trial Court.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

To

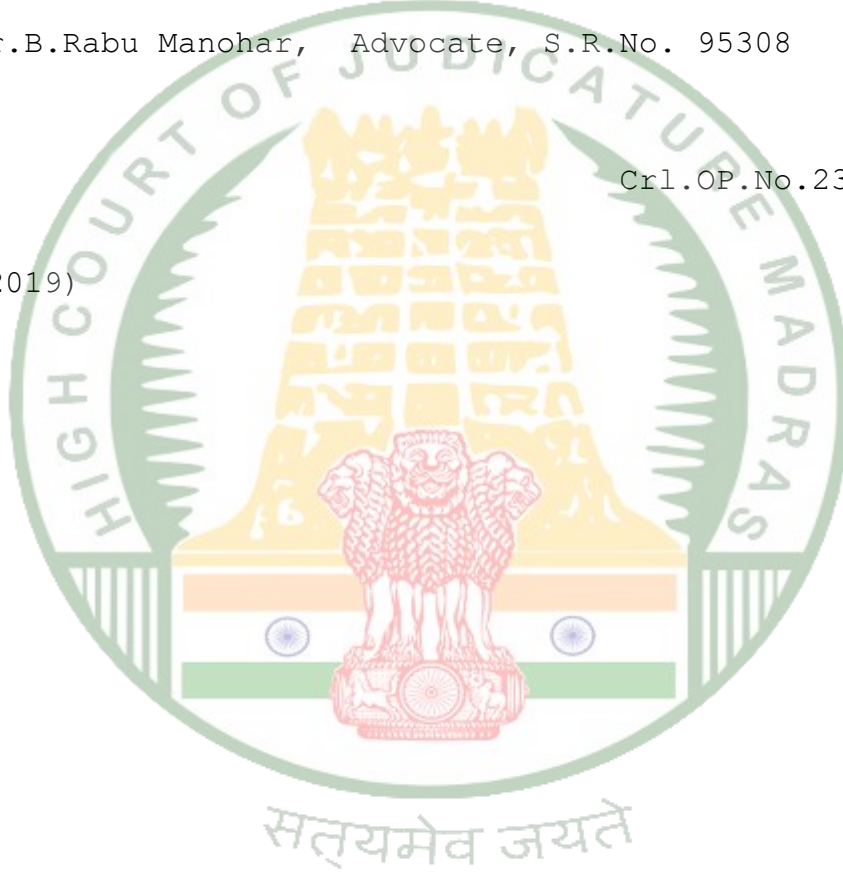
1.The Deputy Registrar of Companies
Tamil Nadu, Shastri Bhavan,
26, Haddows Road,
Chennai -6.

2.The Additional Chief Metropolitan Magistrate,
Economic Offences - I,
Egmore, Chennai.

+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No. 95308

Cr1.OP.No.23595 of 2012

BR(CO)
GN(30/12/2019)



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