

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35829-2010
DATE OF DECISION:-05.03.2019

MAX INDIA LTD. AND ORS.

...PETITIONERS...

V.

THE REGISTRAR OF COMPANIES,
PUNJAB AND ANR.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. A.S. Cheema, Advocate for the petitioners.

Mr. Anil K. Lamdharia, APP,
for UT., Chandigarh.

Mr. Piyush Khanna, Sr. Panel Counsel for Union of India.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing complaint No.12700 of 2010, dated 11.06.2010, titled as "***Registrar of Companies vs. Max India Ltd.***" pending in the Court of CJM, Chandigarh (P-1) along with summoning order dated 21.08.2010 (P-2) and all subsequent proceedings arising therefrom.

Briefly, on 11.05.2006, Mr. R.C. Meena, Joint Director (Inspection) and Sh. R.K. Meena, Deputy Director (Inspection), Ministry of Corporate Affairs carried out inspection of the petitioners' company in compliance to some order of Ministry of Corporate Affairs under Section 209-A of the Companies Act, 1956 (for short, "Act") and prepared

inspection report dated 11.05.2006 (P-4), observing certain violations by the petitioners under Section 147(1)(a) of the Act that petitioners had not affixed the name plate of their company in front of main gate and second floor of their building called as "Max House". On receipt of said report, petitioners' company filed its reply dated 16.06.2006 (P-5). Consequently, show cause notice dated 12.03.2007 (P-7) was issued to the petitioners for making good the deficiency pointed out in the inspection report. In response thereto, petitioners' company filed its reply dated 27.03.2007 (P-8). However, respondents rejecting the plea of the petitioners, advised them to approach the Company Law Board vide letter dated 17.09.2007, now, called as "National Company Law Tribunal".

Consequently, petitioners approached the Company Law Board by moving compounding application dated 28.09.2007 (P-10), which was rejected on 11.05.2010 (P-11) on the ground that petitioners' company did not remove the pointing out defects and that its application was not in proper form. Thereafter, the respondents filed a complaint under Section 147(1) (a) of the Act before the trial court, which has been assailed through instant petition.

Learned counsel for the petitioners drawing attention of this Court to replies dated 16.06.2016 and 27.03.2007 (P-5 and P-8 respectively) coupled with photograph (P-6) contends that the petitioners' company through its aforesaid replies had requested the respondents to re-inspect its premises to re-ascertain the pointed defects, which might have gone unnoticed from the inspection team, but the respondents never chose

to revisit the premises of the petitioners to find out as to whether request of the petitioners was genuine, for the reasons best known to it and filed the impugned complaint with some extraneous reason.

On the other hand, learned counsel for the respondents refuting the above submissions and pleading the legality and validity of the action taken by respondent of filing complaint against the petitioners for violating the provisions of Section 147 (1)(a) of the Act, contends that the petitioners ought to have affixed company's sign board in front of their building instead of affixing it, inside the building. Even otherwise, at the time of inspection of the premises by the inspection team on 30.06.2005, no sign board even inside the premises was found affixed.

Having given thoughtful consideration to the rival submissions, this Court finds merit acceptance of this petition for the reasons to follow:-

1. Sections 147(1) (a) and 147(2) of the Companies Act are reproduced hereunder for ready reference:-

Publication of name by Company.

"147(1) Every company - (a) shall paint or affix its name and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible ; and if the characters employed therefore are not those of the language, or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages ;

(b) XXX XXX XXX

(c) XXX XXX XXX

(2) If a company does not paint or affix its name and the address of its registered office, or keep the same painted or affixed in the manner directed by clause (a) of sub-section (1), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to [five hundred] rupees for not so painting or affixing its name (and the address of its registered office), and for every day during which its name (and the address of its registered office is not so kept painted or affixed."

Perusal of aforesaid provision suggests that a company has to affix its sign board in front of its office or place in which its business is carried on, in a conspicuous position in letters easily legible.

In the instant case, the whole building owned by the petitioners is famously and publically known as "Max House". The said name in itself suggests that petitioners are running its office in it. Perusal of photographs (P-6 colly) shows that sign board of the company in legible clear words was affixed in front of the entrance gate of the aforesaid building, in which, the petitioners are running various offices of its Group Companies.

Therefore, in the considered opinion of the Court, petitioners had not violated the provisions of Section 147(1) (a) of the Act in any manner whatsoever. Consequently, it can safely be held that show cause notice dated 12.03.2007 (P-7) was illegally issued to the petitioners' company by the respondents and further reply of the petitioners was wrongly rejected by the respondent for some extraneous reasons best known to him.

In view of the discussion above, the impugned complaint (P-1)

filed against the petitioners on the basis of false allegations, summoning order (P-2) and all subsequent proceedings are quashed qua the petitioners.

05.03.2019
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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:	Yes/No
whether reportable:	Yes/No