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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

O.S.A.No.195 of 2019

Visweswaran Aswini Kumar ... Appellant

Vs.

The Official Liquidator,
High Court, Madras,
The Liquidator of M/s.Rishyashringa Jewellers
Ltd (In Liquidation) ... Respondent

PRAYER : Appeal filed under Section 483 of the Companies Act, 1956 read with Clause 15 of Letters Patent against the order made in Company Application No.511 of 2018 in Company Petition No.106 of 2016 dated 22.03.2019.

For Appellant : Mr.Ramakrishnan, Senior Counsel
for Mr.B.Senthilnathan

For Respondent : Mr.S.Gopalakrishnan

: Mr.T.R.Senthilkumar
for Income Tax Department

Mr.Hariharan,
: Addl. Government Pleader
(Commercial Tax Department)

JUDGMENT
(Delivered by M.M.SUNDRESH, J)

This appeal has been preferred by the appellant, who is a third party to the judgment and decree passed in C.A.No.511 of 2018 in C.P.No. 106 of 2016, by which, the order of dissolution having been made, the Directors were made liable to pay the statutory dues to the Sales Tax and the Income Tax authorities.



2. The learned Senior Counsel appearing for the appellant submitted that the appellant, being the Director for a period of four months, has not been heard. The liability would arise only for the Director of a Private Limited Company and not for a Public Limited Company.

3. However, the learned counsel appearing for the statutory authorities, namely, the Income Tax Department and the Sales Tax Authorities, submitted that the aforesaid legal position is not correct.

4. We are not inclined to go into the said issue. Inasmuch as both the appellant as well as the Sale Tax and the Income Tax Authorities have not been heard by the learned Single Judge, the order of the learned Single Judge, insofar as the fixation of liability on the appellant is concerned, stands set aside. The learned Single Judge dealing with the matter is requested to go into the said issue after hearing the appellant as well as the Sales Tax and Income Tax Authorities.

5. We make it clear that all the issues are left open both on facts and law. Inasmuch as the appellant is one of the ex-Directors of the Company, which stands liquidated, the learned Single Judge is requested to issue notices to all the ex-Directors during the relevant point of time.

6. The Original Side Appeal is disposed of with the above observations. No Costs. Consequently, connected C.M.P.No.17736 of 2019 is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ssm
To

The Sub Assistant Registrar
Original Side,
High Court, Madras.

+1 CC to Mr.B.Senthilnathan, Advocate sr 5537
+1 CC to Mr.T.R.Senthilkumar, Advocate sr 6047
+1 CC to The Spl. Govt. Pleader(T) sr 6835.

O.S.A.No. 195 of 2019

VSNII(CO)
SP(07/02/2020)