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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.11.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

CRL.O.P.NO.29949 OF 2015

AND

M.P.NO.1 OF 2015

1.M/s. Manali Benefit Fund Ltd.,
No.59, Srinivasan Street,
Manali, Chennai.

2.David Maninesan

3.Sukumar C,

4.Saroja M,

5.Vasanthi K,

6.Raghupathy K,

7.Krishnamoorthy V,

...Petitioners / Accused

Vs

The Deputy Registrar of Companies,
Tamil Nadu,
Having Office at Shastri Bhavan,
26, Haddows Road,
Chennai 600 006

...Respondent / Complainant

Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in E.O.C.C.No.170 of 2015 pending on the file of the Additional Chief Metropolitan Magistrate EO-II, Egmore, Chennai and quash the same in so far as the petitioners are concerned.

For petitioners ... Mrs.S.Varsha

For respondents ... Mr.C.E.Pratap,
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the complaint in EOCC No.170 of 2015 on the file of the Additional Chief Metropolitan Magistrate, Economic Offences, Egmore,



Chennai, which was filed by the respondent/ Deputy Registrar of Companies for the violation of non filing of "Form 5 INV" to identify the unclaimed dividend amount as per Section 2(a) of Section 205C of the Companies Act.

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2. The respondent filed a counter affidavit stating that the petitioner Company is exempted from maintaining the unpaid dividend account under Sections 205A and 205B of the Companies Act vide notification dated 31.08.2006 and without knowing the said fact, the present complaint has been filed.

3. This Court considered the submissions made on either side and perused the materials available on records carefully.

4. From the perusal of the counter, it is seen that the petitioner company is exempted from maintaining the unpaid dividend account. The relevant portion of the counter reads as follows:

"8. It is humbly submitted that the petitioner company is a Company under Section 620A of Companies Act, 1956 and is completely exempted from maintaining the unpaid dividend account and subsequent transfer thereof as mentioned in Section 205A and 205B of the Companies Act, 1956 respectively, vide notification, in Gazette No.517(E) dated 31.08.2006.

9. It is submitted that the respondent had inadvertently filed the prosecution in the said matter in the EOCC No.170 of 2015, against a company incorporated under Section 620A of the Companies Act, 1956, which was exempted in view of the notification as above. "

5. Considering the fact that since the complaint has been inadvertently filed against the petitioner company, which is already exempted from filing the statement, this Court is inclined to quash the complaint.

6. Accordingly, this Criminal Original Petition is allowed and the complaint against the petitioners in E.O.C.C.No.170 of 2015 pending on the file of the Additional Chief Metropolitan Magistrate EO-II, Egmore, Chennai, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

mrp



To

1.The Additional Chief Metropolitan Magistrate EO-II,
Egmore, Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Deputy Registrar of Companies,
2nd Floor, Shastri Bhawan,
26, Haddows Road,
Chennai 600 006

4.The Public Prosecutor,
High Court,
Madras.

+lcc to Mr.D.Ramesh Kumar, Advocate SR.No.59847

Crl.O.P.No.29949 of 2015

GJ(CO)
RVM(30/11/2021)