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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.26330 OF 2017

AND

CRL.M.P.NOS.15174 AND 15175 OF 2017

1. M/s.Oriental Enterprises,
PAN AAAF00309C
No.144/1, Nungambakkam High Road,
Chennai 600 034.

2. S.M.A.Habeeb Mohamed Sathakathullah

3. S.M.A.J.Abdul Haleem

... Petitioners

Versus

The Assistant Commissioner of Income Tax,
Non Corporate Circle-3,
Chennai 600 034.

... Respondent

PRAYER :

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records pertaining to the proceedings in
E.O.C.C.No.133 of 2017, on the file of the Learned Additional
Chief Metropolitan Magistrate EO-I, at Egmore, Chennai and quash
the same.

For Petitioners : Mr.K.Mahalingam

For Respondent : Mr.L.Murali Krishnan
Standing Counsel

ORDER

This Criminal Original Petition has been filed to quash the
proceedings initiated in E.O.C.C.No.133 of 2017 under Section
276C(2) of the Income Tax Act, 1961, on the file of the Learned
Additional Chief Metropolitan Magistrate EO-I, at Egmore,
Chennai.



2. Though several grounds have been raised by the learned counsel for the Petitioners, it is the main contention before this Court that the amount has already been paid. Therefore, there cannot be any prosecution. It is further submitted that as per the direction of the Assessing Officer full interest have also been paid, which has not taken note before filing the case.

3. At the outset, I am of the view that these are all factual aspects which cannot be gone into at this stage. It is the matter for evidence before the trial Court. At this stage, learned counsel for the petitioner submitted that compounding petition is pending before the authority and the authority has to take decision immediately. Be that as it may. If the compound petition is pending before the authority, the authority shall act as per law and take decision within a period of two months from the date of receipt of copy of this Order. In such a view of the matter the Criminal Original Petition is liable to be dismissed.

4. As far as the trial is concerned, the presence of the Petitioner is dispensed with except for receiving copies, answering the charges and questioning under Section 313 Cr.P.C. or any other date that may be fixed by the trial court.

5. In the result, Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ggs/psa

To

1. The Additional Chief Metropolitan Magistrate EO-I,
Egmore, Chennai.
2. The Assistant Commissioner of Income Tax,
Non Corporate Circle-3,
Chennai 600 034.



3. The Public Prosecutor,
High Court, Madras 600104.

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+1cc to Mr.K.Mahalingam, Advocate, S.R.No.63995
+1cc to Mr.L.Murali Krishnan, Advocate, S.R.No.64252

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Crl.M.P.Nos. 15174 and 15175 of 2017

SV(CO)
PM/04/01/2022