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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.09.2021

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THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.2723 OF 2017

AND

CRL.M.P.NOS.1903 AND 1904 OF 2017

1. M/s.Scissor Paper Stone Web Solutions Pvt. Ltd.
Rep. by its Director, Nitin Bindal

2. Nitin Bindal

3. Renie Prabhath Ravin

4. Anwin Joslin Chandrakumar

5. Bala Ganesh Gnana Prakasam

.. Petitioners/Accused

Vs.

The Income Tax Officer,
Corporate Ward 6(1), Room No.704,
7th Floor, Wanaparthi Block,
121, Mahatma Gandhi Road,
Chennai-600034.

.. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.154 of 2016, pending on the file of the learned Additional Chief Metropolitan Magistrate, E.O-II, Egmore at Allikulam, Chennai and quash the same.

For Petitioners .. Mr.R.Palaniandavan
for Mr.Arun Karthik Mohan

For Respondent .. Mr.N.Baaskaran
Special Public Prosecutor



ORDER

The present petition has been filed taking advantage of Section 482 Cr.P.C., seeking interference with C.C.No.154 of 2016, pending on the file of the learned Chief Metropolitan Magistrate/E.O-II, Egmore at Allikulam, Chennai.

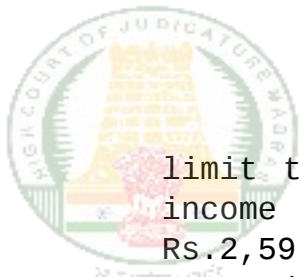
2. The first petitioner is the private limited company and the petitioners 2, 3, 4 and 5 are its directors. The respondent/the Income Tax Officer, Corporate Ward 6(1), Room No.704, 7th Floor, Wanaparthi Block, 121, Mahatma Gandhi Road, Chennai had preferred a complaint, for offences under Section 276-CC of Income Tax Act, 1961 with respect to assessment year 2013-2014/financial year 2012-2013 claiming that the income returns have not been filed. The turnover transaction receipts had been mentioned in the complaint.

3. It had been stated that inspite of such transaction, the first petitioner herein, who was arrayed as the first accused had not filed the returns of income tax for the aforesaid assessment year 2013-2014. It had been further alleged that returns of income tax, under Section 139(1) of the Income Tax Act, 1961, should have been filed on or before 30.09.2013. It had been further stated that a show cause notice, dated 24.06.2016 had been issued, which had also been served and the first petitioner herein reply had sent reply on 13.05.2016.

4. Be that as it may, my attention is drawn to the present petition where it is indicated that the first petitioner herein filed returns of the income tax, for the assessment year 2013-2014 on 05.05.2016. But, that is beyond the period of when it should have been filed.

5. It is now informed that the said returns, filed by the first petitioner, had been processed by the authorities and rectification had been made on 17.06.2021 and a reply has actually come on record stating that the petitioners herein are entitled for a refund of Rs.2,59,000/-.

6. It is urged by the learned Counsel for the petitioner that, therefore, the offence under Section 276-CC would not be attracted, in view of the proviso to the said section. Let me



limit the order to that particular fact that, after filing the income tax returns, now being entitled for a refund of Rs.2,59,000/-, pursuant to rectification conducted by the respondent on 17.06.2021, keeping the Calendar Case, pending on the file of the learned Chief Metropolitan Magistrate/E.O-II, Egmore at Allikulam, Chennai would be of no avail as possibility of conviction would also be quite remote. The proviso to Section 276-CC, certainly, would be attracted in this particular case.

7. I find no reason to keep the Calendar Case still pending as against the petitioners herein.

8. A rectification order had been passed by the Income Tax Officer,/Corporate Ward 6(1) at Chennai in AAMCS9353H/AY:2013-14/CW-6/(1)2021-22, dated 17.06.2021. Taking that particular order into consideration, further proceedings in C.C.No.154 of 2016, pending on the file of the learned Additional Chief Metropolitan Magistrate, E.O-II, Egmore at Allikulam, Chennai are quashed.

9. The present Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

grs

To

1. The Additional Chief Metropolitan Magistrate,
E.O-II, Egmore at Allikulam, Chennai.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai.



3. The Income Tax Officer,
Corporate Ward 6(1), Room No.704,
7th Floor, Wanaparthi Block,
121, Mahatma Gandhi Road, Chennai-600034.

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Cr1.O.P.No.2723 of 2017
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RSV(CO)
RLP(22/10/2021)