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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.Nos.11845 & 11846 of 2015
and

M.P.Nos.1, 1, 2 & 2 of 2015

Rajesh K. Hiranandani ... Petitioner in both Crl.O.Ps

Vs

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

... Respondent in both Crl.O.Ps

Both the Criminal Original Petitions are filed under Section 482 of Cr.P.C. to call for the records culminating in E.O.C.C.No.38 & 39 of 2015 respectively pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences -II, Egmore, Chennai- 8 and quash the same.

For petitioner ... Mr. Sriram Panchu,
in both O.Ps Senior Counsel
for Mr. Arun Anbumani

For respondent ... Dr.D.Simon
in both O.Ps CGSC

C O M M O N O R D E R

Both the Criminal Original Petitions have been filed to quash the proceedings in EOCC Nos.38 & 39 of 2015, respectively pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences-II, Egmore, Chennai - 8, as against the petitioner.

2. Since the issues involved in both the cases are one and the same, both the cases are heard together and disposed of by



this common order.

3. The respondent/ Deputy Registrar of Companies has filed complaints against the petitioner, who is a Chartered Accountant, for violating the provisions of Section 227(3)(d), which is punishable under Section 233 of the Companies Act, 1956.

4. The allegation in the complaints is that the petitioner, being an Auditor of one M/s.Financial Technologies(India) Limited, filed Cash Flow Statements of the Company, which is not in accordance with the Accounting Standard Procedure (AS 3), thereby, he has violated the provisions of Section 227(3)(d) of the Companies Act. The learned Judicial Magistrate has taken cognizance of the offence in both the cases and issued process. To quash the same, both the Criminal Original Petitions have been filed.

5. Mr. Sriram Panchu, learned Senior Counsel appearing for the petitioner/accused submitted that the petitioner is a Chartered Accountant of the company and he has filed the Cash Flow Statement of the Company in accordance with the Accounting Standard Procedure(AS3), which is an acceptable procedure and he has not violated the provisions of Section 227(3)(d) of the said Act. The learned Senior Counsel further submitted that the petitioner has filed the Cash Flow Statements for the year 2011 & 2012, which is punishable under Section 233 of the Act, punishable with a fine of Rs.1,000/-. In the above circumstances, the complaints ought to have been filed within a period of six months, whereas, the complaints had been filed only in the year 2014, i.e., beyond the period of limitation and the complaints are barred by limitation and the learned Magistrate ought not to have taken cognizance of the offence.

6. The respondent filed a counter affidavit. In paragraph 7 & 8 of the counter, it is stated that, as per the provisions of Paragraph 18 of the Accounting Standard Procedure(AS 3), the Chartered accountant should report the cash flow, either by direct or indirect method ,and in the instant case, Cash Flow Statement of the Company had been filed under indirect method. The relevant portion of the counter reads as follows:-

"7. It is humbly submitted that as per the provision of paragraph 18 of AS 3 :

"18. An enterprise should report cash follow from operating activities using either:

a) The direct method, whereby



10. Accordingly, both the Criminal Original Petitions are allowed and the complaints against the petitioner in E.O.C.C.Nos.38 & 39 of 2015 on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences-II, Egmore, Chennai, are quashed in respect of the petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

mrp

To

1. The Additional Chief Metropolitan Magistrate,
Economic Offences-II, Egmore, Chennai,
2. The Deputy Registrar of Companies,
Tamil Nadu,
Having office at Shastri Bhavan,
26, Haddows Road,
Chennai 600 006 .

+1cc to Mr.Arun Anbumani, Advocate SR.No.4490

+2ccs to MDr.D.Simon, Advocate SR.No.4807 & 4808

CrI.O.P.Nos.11845 & 11846 of 2015

AK II(CO)
GMY(23/03/2022)