IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.01.2022

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.Nos.11847 & 11848 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.40 & 41 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 in both O.Ps ... Mr. Sriram Panchu, Senior Counsel for Mr. Arun Anbumani

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

COMMON ORDER

Both the Criminal Original Petitions have been filed to quash the proceedings in EOCC Nos.40 & 41 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 Sections 211, 227 & 229, 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 Auditor's statement for the year 2010-2011 and 2011-2012, which are not in accordance with Schedule VI of the Companies Act 1956, and the statement of the petitioner is not in conformity with the requirements of Sections 227 and 229, thereby, he has violated the provisions of Section 211(3A) & (3C) of the Companies Act. The learned Judicial Magistrate has taken cognizance of the offences 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 and he has filed the Auditor's statements in accordance with Schedule VI of the Companies Act, 1956 and there is no violation. The learned Senior Counsel further submitted that the petitioner has filed the Auditor's Statements for the year 2010-2011 & 2011-2012, which are 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 on that ground also, 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, wherein, in paragraph 8, it has been admitted that the financial statement filed by the petitioner is only in accordance with the provisions of Schedule VI of the Companies Act 1956. The relevant portion of the counter reads as follows:-

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> "8. It is humbly submitted that the corresponding figures in notes forming part of financial statement in respect of the year ended 31.03.2011 as "Net"is in accordance with provision of the Schedule VI of the Companies Act, 1956."

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> "8. It is humbly submitted that the corresponding figures in notes forming part of financial statement in respect of the year ended 31.03.2012 as "Net"is in accordance with provision of the Schedule VI of the Companies

Act, 1956."

7. I have heard both sides and carefully perused the materials available on record.

8. In view of the counter filed by the respondent,more particularly, in paragraph 8, admitting that the petitioner has filed the financial statements as per the provision of the Schedule VI of the Companies Act, 1956, there is no violation of any provisions of the said Act as alleged in the complaints. As rightly contended by the learned Senior Counsel appearing for the petitioner, the maximum punishment prescribed under Section 233 of the said Act is with a fine of Rs.1,000/-. In the said circumstances, the complaints ought to have been filed within a period of six months, whereas, the complaints have been filed only after two years, which is barred by limitation and that the learned Magistrate ought not to have taken cognizance of the offences and issued process. Considering the above said circumstances, this Court is of the considered view that the present complaints are not maintainable on merits as well as on the ground of limitation and hence, the same are liable to be quashed.

9. Accordingly, both the Criminal Original Petitions are allowed and the complaints against the petitioner in E.O.C.C.Nos.40 & 41 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 .

+2cc to Dr.D.Simon, Advocate SR.No.4809 & 4811

+1cc to Mr.Arun Anbumani, Advocate SR.No.4488

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GMY(23/03/2022)