



W.P.No.15342 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.15342 of 2015

and

M.P.Nos.1 & 2 of 2015

M/s.Helios and Matheson Information Technology Ltd.,
Represented by its Managing Director Mr.G.K.Muralikrishna,
No.9, Adware Towers, South Boag Road,
T.Nagar,
Chennai – 600 017.

... Petitioner

Vs.

1. The Union of India,
Represented by the Regional Director,
Southern Region, Ministry of Corporate Affairs,
V Floor, “A” Wing, Shastri Bhawan,
No.26, Haddows Road,
Chennai – 600 006.

2. The Registrar of Companies,
IInd Floor, Shastri Bhawan,
No.26, Haddows Road,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, calling for the records and quash the notice issued by the first respondent dated 19.05.2015 vide No.JDI/MAS/2(INV)/2015 being *ultra vires* and *non est* in law.



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For Petitioner : Mr.Vaibhav R.Venkatesh
for M/s.Nithyaesh and Vaibhav
For Respondents :
For R1 : Mr.R.K.Gandhi
For R2 : No Appearance

ORDER

This writ petition has been filed for the issuance of a Writ of Certiorari to call for the records and quash the notice issued by the first respondent dated 19.05.2015 vide No.JDI/MAS/2(INV)/2015 being *ultra vires* and *non est* in law.

2. There is no representation on behalf of the second respondent. The learned counsel for the petitioner has drawn attention to the order passed by the Company Court in C.P.No.143 to 145 of 2015 under Section 433 (e) of the Companies Act, 1956.

3. By the aforesaid order, the Court had ordered the liquidation of the petitioner company and also directed the Ministry of Corporate Affairs to direct the serious Fraud Investigating Office to inquire into the affairs of the respondent of the petitioner company and that the Serious Fraud



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Investigating Office was directed to file a report on or before 18.03.2016.

The Company Petition referred to supra was filed under the provisions of the Companies Act, 2013 read with Insolvency and Bankruptcy Code (IBC), 2016, made applicable for liquidation of companies.

4. The order of the learned Single Judge in C.P.Nos.143 to 145 of 2015, 414 to 416 of 2015 has been stayed by the Hon'ble Division Bench of this Court by its order dated 21.04.2017 in OSA.No.19 of 2016 filed by the petitioner. Relevant portion of the order of the Hon'ble Division Bench of this Court reads as under:

“6. We have given our anxious consideration to the submissions made by the learned Senior Counsel for the petitioner. We also find that in the above factual scenario, it is to be considered whether in respect of the claims made in Company petitions in C.P.Nos.143 to 145 of 2015 filed by the three respondents, the provisions of Section 433(e) gets attracted. The scheme, having been presented before the Court by the petitioner, and if substantial number of depositors are capable of being discharged based on the quantum for which the proposal has been submitted, we find that the Court should have given the appellant an opportunity to resolve the claims of small depositors at the first instance. The only issue is, whether at the stage of investigation by Economic Offences Wing, prima facie the petitioner could be found guilty by issuing the above



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stated suo motu direction, we would have accepted the reasoning of the learned Single Judge to order suo motu investigation by Serious Fraud Investigation Office, had there been some material either before this Court or there has been a report filed by any other investigating agency after completion of enquiry.”

5. The impugned order has been passed on 19.05.2015, under Section 210 (1)(a) read with 210 (3) of the Companies Act, 2013, whereby, pursuant to the order of the Central Government dated 18.05.2015, by Order No.7/85/2015/CL.II (SR), Thiru.K.Thirumalaimuthu, Joint Director of this Directorate was appointed as inspector to investigate into the affairs of the petitioner's company.

6. The impugned order also contains certain directions considering the fact that almost an identical order came to be passed by this Court in Company Petition in C.P.Nos.143 to 145 of 2015, 414 to 416 of 2015 on 21.06.2016, Correctness of which is under test now before the Hon'ble Division Bench in OSA.No.19 of 2016, I am inclined to close this writ petition for the present, subject to the final outcome of the proceedings in OSA.No.19 of 2016. The proceedings which are impugned in this writ petition shall therefore be kept in abeyance. The respondent shall await for



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further orders of the Hon'ble Division Bench of this Court in OSA.No.19 of 2016. In case, OSA.No.19 of 2016 is withdrawn or dismissed for any reasons, it will be open for the respondent to proceed further in accordance with the impugned order.

7. The writ petition stands closed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
rgm



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C.SARAVANAN, J.

rgm

To

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The Union of India
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