IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.26897 OF 2017 AND
CRL.M.P.NOS.15447 & 15448 OF 2017

1. Surana Industries Limited,
   Rep. by its Authorized Signatory,
   F67, 68 & 69, SIPCOT Industrial Complex,
   Gummudipoondi, Thiruvallur-601 201,
   Tamil Nadu, India.

2. Goutham Raj Surana
3. Kokkarne Natrajan Prithviraj
4. Anil Gupta Kumar
5. Hem Senthil Raj
6. Panchapakesan Soundharya ... Petitioners

Versus

The Deputy Registrar of Companies,
At No.26, Haddows Road,
Chennai-600 006. ... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in E.O.C.C.No.472 of 2017 on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences, Egmore, Chennai and quash the same.

For Petitioner : Mr.K.Vijayaragavan

For Respondent : Mr.D.Rameshkumar,
Central Government Standing Counsel

ORDER

This Criminal Original Petition has been filed to quash the proceedings in E.O.C.C.No.472 of 2017, on the file of the Additional Chief Metropolitan Magistrate Court, Economic Offences, Egmore, Chennai.

2.The gist of the case is that the 1st petitioner is the company viz., M/s.Surana Industries Limited, which was incorporated in the year 1991 under the Companies Act. The petitioners 2 to 6 are the Whole Time Director, Managing Director, Directors of the 1st petitioner company. The petitioners in this case ought to have held its Annual General Meeting in respect of the financial year ended 31.03.2015 on or before 30.09.2015 as per Section 96(1) of the Companies Act. The copy of the Annual Return and the copy of Financial Statement, including consolidated financial statement should have been filed before the respondent within 60 days and 30 days respectively after the said documents were laid before the said General Meeting in terms of Section 92(4) and 137(1) of the Companies Act. In this case, the petitioners have not complied with the provisions of Section 137(1) r/w 137(3) of the Companies Act, 2013. Hence, show cause notice was issued on 04.11.2016 by the respondent and thereafter, the complaint was filed before the trial Court, which was taken on file as E.O.C.C.No.472 of 2017, against which the present Quash Petition.

3.The learned counsel for the petitioners submitted that the complaint has been filed without considering the explanation given by the petitioners company on 14.11.2016. The petitioners gave explanation that there was frequent change of taxonomy tool by the Ministry of Corporate Affairs for filing the financial statement in XBRL format during the year 2015. Due to which, the 1st petitioner company was not in a position to file the financial statement in XBRL format. In support of his submissions, the learned counsel for the produced the Fee Challan for Form AOC-4XBRL, dated 29.11.2016, Fee Challan for Form MGT-7, dated 29.12.2016 and Fee Challan for Form AOC-4XBRL for the financial year ending 2015, dated 18.11.2017. Due to hitch in the Ministry of Corporate Affairs portal, the delay was occurred and not on the side of the petitioners. Despite explaining the technical issues and the difficulties suffered by the petitioners, the above complaint has been filed by the petitioners. Hence, he prayed for quashing the proceedings against the petitioners.

4.The learned Central Government Standing Counsel appearing for the respondent filed counter and submitted that the petitioners are the Directors of the 1st petitioner company. The 1st petitioner company has not filed financial statement for the financial year ended 31.03.2015 as required under Section 137(1) read with Rule 12(2) of the Companies (Accounts) Rules, 2014. Therefore, the respondent issued a show cause notice, dated 04.11.2016 against the petitioners and the subject company for the violation of Section 137(1) r/w 137(3) of the Companies Act, 2013 and filed a complaint before the trial Court. He further submitted that as per sub-Section(1) of Section 137 of the Companies Act, 2013, a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed. The petitioner company should have filed the financial statement in form No.AOC-4 XBRL for the year ending on 31.03.2012 on or before 30.10.2015. The 1st petitioner company had filed financial statement only on 18.11.2017. It leads to the violation of Section 137(1) r/w 137(3) of the Companies Act, 2013. The 1st petitioner company filed the financial statement only after the respondent launched the prosecution against them. Since the non-filing of financial statement is continuing offence as per Section 137(3) of the Companies Act, 2013. Hence, the prosecution launched by the respondent is maintainable, which need not be interfered with.

5.This Court considered the rival submissions and perused the materials available on record.

6.The above complaint has been filed by the respondent for non-payment of financial statement for the financial year ended 31.03.2015 as required under Section 137(1) r/w 12(2) of the Companies (Accounts) Rules, 2014. As per sub-Section(1) of Section 137 of the Companies Act, 2013, a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed.

7.The points raised by the petitioners are factual in nature, which has to be decided only during and not in this Criminal Original Petition.

8.In view of the above, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Metropolitan Magistrate,
   Economic Offences,
   Egmore, Chennai.

2. The Deputy Registrar of Companies,
   At No.26, Haddows Road,
   Chennai-600 006.

CRL.O.P.No.26897 of 2017

PM(CO)
NSK/16/03/2022