

AD-22
Ct No.09
13.12.2023
TN

WPA No. 11300 of 2022

Sajjan Tailor
Vs.
Union of India

Mr. Suddhasatya Banerjee,
Mr. Sourav Jain

.... for the petitioner

Mr. Kallol Mondal,
Mr. Vipul Kundalia,
Mr. Bappaditya Nag,
Mr. Sounava Ghosh,
Ms. Swagata Roy,
Mr. Shaunak Ghosh,
Mr. Sourav Kr. Mukherjee

.... for the UOI

- 1.** The present challenge has been preferred primarily against a summons dated June 15, 2022 issued by the respondent-authorities under Section 217 of the Companies Act, 2013. Learned counsel for the petitioner contends that apparently the petitioner has been called in the capacity of a former employee of one Gujarat NRE Coke Limited and as Director of three other companies named in the impugned summons.
- 2.** It is argued that insofar as Gujarat NRE Coke Limited is concerned, the petitioner has been summoned several times previously and has already produced documents weighing about

eight-and-half kgs., which substantially covered all the documents which were in possession of the petitioner. Despite such production, it is argued that the petitioner is being harassed repeatedly.

- 3.** It is submitted further that the order of the Government of India was apparently passed under Section 212 of the Companies Act with regard to Gujarat NRE Coke Limited only and not other companies.
- 4.** Insofar as the other three companies are concerned, those are neither subsidiaries nor associates of the Gujarat NRE Coke Limited. As such, it is argued that the said companies do not come within the purview of Section 219 of the Companies Act, 2013 (hereinafter referred to as “the 2013 Act”), which is the only other provision which empowers summons to be issued under Section 217 of the 2013 Act.
- 5.** It is further argued that in view of the absence of any satisfaction as regards the said three companies coming within the fold of Section 219, the initiation of the summons itself is vitiated.
- 6.** Learned counsel expresses apprehension since non-compliance of such summons would entail

prosecution under Section 217(8) which has also been threatened in the impugned summons.

- 7.** It is argued that since the documents sought by the respondent-authorities again pertain to Gujarat NRE Coke Limited only, in view of the petitioner having already submitted such documents to the respondent-authorities, the issuance of the summons is redundant and harrassive.
- 8.** Learned counsel appearing for the respondent-authorities points out that on June 14, 2022 the petitioner had written to the respondent-authorities indicating that he would produce whatever documents are in his custody within a week from that date, pursuant to which the impugned summons was issued. It is further argued that the order of investigation pertains not only to Gujarat NRE Coke Limited but its associates/subsidiaries. It is controverted that the three other companies named in the summons are not subsidiaries or associates of Gujarat NRE Coke Limited.
- 9.** A perusal of Section 212 coupled with Section 219 indicates that by a single order of investigation passed under Section 212 of the 2013 Act, investigation can be initiated not only

in respect of a particular company but its subsidiaries and associates also. In order to embroil other companies than the original company with regard to which the investigation was commenced, Section 219 is the relevant provision and does not require any separate authorization, either under Section 212 or otherwise.

- 10.** The only requirement under Section 219 to initiate such investigation against such other companies is that the Inspector appointed under Section 212 considers it necessary for the purposes of the investigation to investigate into the affairs of such other companies subject, of course, to the companies coming within the purview of the subsequent sub-clauses (a) to (d) of Section 219. Hence, it is only the objective perception of the Investigating Officer which matters to continue investigation against other companies coming within the purview of Section 219 and no further authorization is necessary.
- 11.** The petitioner specifically argues that the petitioner does not come within the ambit of the sub-clauses of Section 219, not being a subsidiary or an associate of the original accused

company Gujarat NRE Coke Limited within the definition of the Companies Act, 2013.

- 12.** However, it would be premature at this stage to interdict the investigation itself on a conclusive finding that the petitioner does not fall within the purview of such definition of subsidiary or associates. It is only upon the investigation being concluded that conclusive findings in that regard can be returned by the investigating agency.
- 13.** Of course, the petitioner is always at liberty to point out to the Investigating Officer that the petitioner does not come within the ambit of Section 219, as he is a Director of the three companies which are neither subsidiaries nor associates of Gujarat NRE Coke Limited.
- 14.** If such a point is raised by the petitioner, the same shall surely be dealt with by the Investigating Officer duly in accordance with law. However, the law, as it stands, does not present any immediate cause to restrain the investigation or to injunct the respondents with regard to the summons dated June 15, 2022, issued to the petitioner in connection with such investigation.
- 15.** In such view of the matter, no interference is called for in the writ petition.

16. Accordingly, WPA No. 11300 of 2022 is dismissed on contest without any order as to costs, leaving it open to the petitioner to raise all issues, particularly with regard to the objection that the three new companies mentioned in the summons dated June 15, 2022 do not fall within the purview of Section 219 of the Companies Act, 2013, before the Investigating Officer.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)