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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 23251 of 2015

1. Purasaiwakkam Santhatha
   Sanga Nidhi Ltd.,
   Rep. by its Director – Trustee
   Mr. N.B. Kothandaraman
   No.49, (Old No.47)
   Vellalar Street,
   Purasaiwakkam,
   Chennai – 600 084.

2. N.M.Manivannan
3. V.Raghupathi
4. A.R.Sridharan
5. T.S.Ravisankar ...Petitioners

-Vs-

The Deputy Registrar of Companies,
Tamilnadu,
Shastri Bhavan II Floor,
Block V & VI,
26, Haddows Road,
Chennai – 600 006. ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to EOCC.No.154 of 2015, on the file of the learned II Additional Metropolitan Magistrate Economic Offences, Egmore, Chennai, and quash the same.

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For Petitioners : Mr.S.Sathiyanarayanan

For Respondent : Mr.A.Kumaraguru
Central Government Standing Counsel

ORDER

This Criminal Original Petition has been filed to quash the proceedings in EOCC.No.154 of 2015, on the file of the learned II Additional Metropolitan Magistrate Economic Offences, Egmore, Chennai, thereby taken cognizance for the offence under the Companies Act, 2013 as against the petitioners.

2. The respondent initiated proceedings under Section 205C r/w 629 of the Companies Act, 1956 for non-filing of return on deposit matured and transferred to the Investors Education and Protection Fund (hereinafter referred to as "IEPF") against the petitioners, alleging that the petitioners failed to comply the provisions under Section 205 C of the Companies Act. The respondent issued show cause notice dated 28.08.2014, wherein they have sought information of transfer of matured unpaid deposits of the accused company to the Investors Education and

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Protection Fund under Section 205 C of the Companies Act and filing of return thereof for the year ended March, 31, 2011.

3. On receipt of the same, the petitioners submitted explanation stating that they periodically transferring the sums which are remained unclaimed from the investors/share holders/depositors for a period of seven years and the filing of Form I INV is done on timely basis. Therefore, the petitioners have no amount which have unclaimed for the period of seven years from the date on which it has become due, which required to be transferred to the IEPF as required under Section 205 of the Companies Act. They have also taken steps to upload Form 5 INV by 15.09.2014 and asked for time. It was acknowledged and the Form 5 INV dated 15.09.2014 was submitted through E-filing for the year ended March, 2011. It was duly acknowledged and approved by the respondent as per the provisions of the Companies Act, 1956.

4. Further the filing of Form 5 INV was introduced by the Ministry of Corporation affairs by notification dated 10.05.2012 only. Earlier to the said notification, the filing of Form 1 was in force. Thereafter the said notification was introduced and accordingly, it should

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be filed on or before 31.07.2012 or 90 days from the date of Annual General Body Meeting, whichever is later. The petitioners had conducted Annual General Body Meeting on 22.09.2011. Therefore, the time taken by the petitioners was well before the notification. The respondent lodged complaint on the ground that no reply was issued by the petitioners in response to the show cause notice dated 28.08.2014.

5. On perusal of records revealed that on receipt of the said show cause notice, the petitioners had sent reply dated 01.09.2014, thereby they informed that no amount which had been unclaimed for a period of seven years from the date on which it has become due, required to be transferred to IEPF as required under Section 205C of the Companies Act. It was duly acknowledged by the respondent. That apart, Form 5 INV submitted by the petitioners was duly acknowledged by the respondent without any objection. Therefore, no offence is made out as against the petitioners as alleged by the respondent and the present proceeding cannot be sustained and liable to be dismissed.

6. In view of the above discussions, the proceedings in EOCC.No.154 of 2015 on the file of the learned II Additional

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Metropolitan Magistrate Economic Offences, Egmore, Chennai, is hereby quashed as against the petitioners and the Criminal Original Petition stands allowed.

05.10.2023
(2/2)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

To

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

2. The Deputy Registrar of Companies,
Tamilnadu,
Shastri Bhavan II Floor,
Block V & VI,
26, Haddows Road,
Nungambakkam,
Chennai – 600 006.

3. The Public Prosecutor,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN. J,

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