Comp.A.No.291 of 2020
in C.P.No.178 of 2015

KRISHNAN RAMASAMY, J.

This application is filed

(i) to take this report on record;

(ii) to grant stay of any further Income Tax Proceedings by Deputy Commissioner of Income Tax, Non Corporate Circle-10(1)(i/c), Chennai.

(iii) to direct the Income Tax Department to refund the Income Tax refund amount approximately Rs.90 Lakhs and to deposit with the Official Liquidator and to make claim before the Official Liquidator for adjudication as per the Companies Act, 1956.

2. This application came to be filed in the pretext that the respondent is going to refund a sum of Rs.90,00,000/- to M/s.Anand Cine Services, which was initially a partnership firm.

3. According to the learned Official Liquidator, M/s.Gemini Industries and Imaging Limited, which was a partnership firm of M/s.Anand Cine Services, is liable to pay a sum of Rs.18.01 Crores. Therefore, he would request that if the respondent is going to refund a

sum of Rs.90,00,000/- to M/s.Anand Cine Services, the same may be paid to the accounts of the company in liquidation and he seeks for an appropriate direction from this Court.

4. On the other hand, the learned Senior standing counsel for Income Tax Department would submit that initially M/s.Anand Cine Services is a partnership firm wherein the company in liquidation is also one of the partners. However, subsequently it was converted into a company with effect from 31.03.2015. Therefore, now the company in liquidation is not a partner of M/s.Anand Cine Services Private Limited (hereinafter called as M/s.Anand Cine Services). He would also submit that the income tax assessment is going on and it was found that a sum of Rs.90,00,000/- is liable to be refunded to M/s.Anand Cine Services and the same cannot be returned to the company in liquidation, since this company in liquidation was not a partner now and even otherwise the company in liquidation is not entitled as claimed by them.

5. Further, he would contend that at this point of time, since the said amount cannot be paid to the accounts of the company in liquidation, if there is any claim against M/s.Anand Cine Services, the learned Official

Liquidator can take steps against M/s.Anand Cine Services. Therefore, he would submit that the application is liable to be dismissed.

6. Heard the learned counsel on both sides and perused the affidavit filed in support of this application and also considered the submission made by the learned Senior standing counsel that M/s.Anand Cine Services is a separate entity and hence, if there is any refund, the same can be made to it and not to the company in liquidation.

7. Further, the claim was made as if the company in liquidation was a partner with M/s.Anand Cine Services. However, since the partnership firm was converted into limited company in the year 2015, the company in liquidation cannot be a partner of M/s.Anand Cine Services. At any cost, this Court is of the considered view that if there is any refund paid to M/s.Anand Cine Services and the same will be paid directly to the accounts of it.

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8. Under these circumstances, since there is no merits in this application, this application is liable to be dismissed. If there is any claim against M/s.Anand Cine Services, the learned Official Liquidator can very well file an appropriate application to recover the same in accordance with law.

9. Accordingly, this application is dismissed.

09.06.2023

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