IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.OP No. 20585 of 2022
& Crl. MP. No. 13492 of 2022

1 M/S.PL FINANCE AND INVESTMEN
TS LIMITED KARUNAI KUDIL 1ST FLLOOR NO.
226 CATHEDRAL ROAD CHENNAI 86 TAMIL NADU
NOW AT TANGY APARTMENTS NO.34 DR.P V
CHERIAN CRESCENT ROAD E

2 TADAVARAM RAGOTHAMARAO MURALI
40 MOSSES STREET EASWARAN NAGAR PAMMAL
CHENNAI. 600075.

[PETITIONERS]

Vs

1 THE DEPUTY REGISTRAR OF COMP
LANIES TAMIL NADU SHASTRI BHAVAN 26
HADDOWS ROAD CHENNAI 600006.

[RESPONDENT]

PRAYER : This petition has been filed under Section 482 of Cr.P.C, to call for the records of complaint in EOCC No.206/2017 pending on the file of the Additional chief Metropolitan Magistrate Economic Offence II Egmore Chennai - 8 and quash the same

For Petitioner : Mr.Anil Relwani.

ORDER

The petitioners have filed this petition to quash the EOCC.No.206 of 2017 pending on the file of the Additional Chief Metropolitan Magistrate Economic Offence II, Egmore, Chennai-8, having been taken cognizance for the offences punishable under Section 137(1) read with Section 137(3) of the Companies Act, 2013.

2. The learned counsel for the petitioners submitted that the petitioners have already filed the financial statements for the year 2014 – 2015 with the respondent on 01.05.2018 vide SR.No.G83570473 along with penalty of Rs.7,200/- and therefore, they have not committed any offences as alleged by the respondent. Hence he prays to quash the proceedings against them.

3. The learned counsel for the respondent submitted that the petitioner

is the Managing Director of the company, when the offences were committed he is one of the officers who are in default within the meaning of Section 2(60) of the Companies Act, 2013. He further submitted that the petitioner ought to have filed the financial statement for the financial year ending 30.03.2015 within 30 days of the date of the Annual General Meeting which ought to have been held on or before 30.09.2015. Thereafter, lodged a complaint under Section 137(1) read with Section 137(3) of the Companies Act, 2013. He further submitted that the Ministry of Corporate Affairs vide its general circular 12/2020 dated 30.03.2020 has introduced "Companies Fresh Start Scheme 2020", whereby the Ministry of Corporate Affairs has condoned the delay in filing the Financial statement with the Registrar and has granted immunity to defaulting companies from launching of prosecution of proceedings for imposing penalty on account of delay associated with such filings. He further submitted that para 6(iii) of the companies Fresh start scheme, 2020 deal with the applicability of the said scheme: 6(iii) Applicability:- any "defaulting company" is permitted to file belated documents which were due for filing on any given date in accordance with the provision of this scheme. The term defaulting company is defined in the para 6(ii)(c): 6(ii)(c): " defaulting company" means a company defined under the Companies Act,2013 and which has made a default in filling any of the documents, statement, return, etc., including annual statutory documents on MCA-21 Registry.

Since the petitioner Company had filed the Financial Statement on 01.05.2018, it will not come under the definition of “defaulting Company” and therefore the Companies Fresh start Scheme, 2020 will not apply to the Subject Company as per the para 6(iii) of the scheme. The para 6(i) of the scheme deal with the period of enforcement of the scheme.

6(i): The scheme shall come into force on 01.04.2020 and shall remain in force till 30.09.2020.

Since the company fresh start scheme is expired now, the argument of applicability of the said scheme to the petitioner company is devoid of merits and liable to be dismissed.

4. On seeing the entire facts and considering the submissions made on either side, and according to the company averments, the petitioners ought to have filed the financial statement for the year 2014 – 2015 and the statement was not filed on time and the delay has also not been explained properly, and the same needs detailed investigation. Hence, this Court is not inclined to quash EOCC.No.206 of 2017 pending on the file of the Additional Chief

Metropolitan Magistrate Economic Offence II, Egmore, Chennai-8.

5. Liberty is granted to the petitioners to work out their remedy before the Registrars of Companies in the manner know to law. On considering the direction given to the petitioner, the learned trial Judge is directed not to conduct the proceedings trial till the petitioner works out the remedy before the Registrars of Companies. The petitioner is directed to file an application before the Registrars of Companies within a period of 8 weeks from the date of receipt of copy of this order.

14.02.2024

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To

The Public Prosecutor, High Court, Madras.

T.V.THAMILSELVI, J.

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