BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 11.03.2024

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

CRL OP(MD) No.8842 of 2022
and
Crl.M.P.(MD) Nos.5948 & 5949 of 2022

1.M/s.Muthulakshmi Spinning Mils Pvt Ltd.,
Represented by its Managing Director,
No.7, Mariamman Kovil Street,
Srivilliputhur-626 125.

2.S.Shanmugavel,
Managing Director,
M/s.Muthulakshmi Spinning Mils Pvt Ltd.,
No.73, Mariamman Kovil Street,
Srivilliputhur-626 125.

3.S.Shanmugavadivel,
Director,
M/s.Muthulakshmi Spinning Mils Pvt Ltd.,
No.73, Mariamman Kovil Street,
Srivilliputhur-626 125.

4.S.Siva Shanmugavel,
Director,
M/s.Muthulakshmi Spinning Mils Pvt Ltd.,
No.73, Mariamman Kovil Street,
Srivilliputhur-626 125.

5.Kaliammal
Director,

No.101, Mariamman Kovil Street,
Srivilliputhur-626 125. ... Petitioners/Accused

Vs

Income Tax Department,
O/o. The Commissioner of Income-Tax(TDS),
Coimbatore,
Represented by Income Tax Officer,
TDS Ward, Madurai. ... Respondent/
Complainant

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to call for the records pursuant to the proceedings in C.C.No.20 of 2017 on the file of the Additional Chief Judicial Magistrate, Madurai and quash the same.

For Petitioner : Mr.Lakshmi Gopinathan
for M/s. Polax Legal solutions

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

This petition has been filed to quash the proceedings in C.C.No.20 of 2017 on the file of the Additional Chief Judicial Magistrate, Madurai.

2. The respondent is the complainant in C.C.No.20 of 2017. The learned counsel for the petitioners would submit that for non-filing of Income Tax returns in time and delay in payment of deducted Income Tax to the tune of Rs.1,05,241/- for the financial year 2008-2009, the respondent filed a complaint under Section 200 Cr.P.C and Section 276B r/w 278B of the Income Tax, 1961 before the learned Chief Judicial Magistrate, Madurai and the same was taken on file in C.C.No.20 of 2017. Challenging the same, the petitioners filed this present petition.

3.The learned counsel for petitioners would submit that prior to filing this quash petition, the petitioners filed an application on 23.12.2014 for compounding the offence punishable under Section 276B of the Income Tax Act, and the same was not considered till date. Hence, he submitted that this Court may issue a direction to the respondent to consider the petitioner's application for compounding the offence in the manner known to law.

4. Per contra, the learned Standing counsel appearing for the respondent would submit that the petitioner's application for

compounding the offence was considered in favour of the petitioners and the authority ordered them to pay Rs.1,01,805/- as compounding fees on or before 19.05.2017. But the said order was not complied by the petitioners, thereby the petitioners' application for compounding the offence was rejected on 27.07.2017. In view of the above, without challenging the said order, seeking the remedy for reconsideration of their application in the quash petition is not maintainable. Hence, he seeks for dismissal of this petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The facts of the present case is that for non-filing of Income Tax returns in time and delay in payment of deducted Income Tax to the tune of Rs.1,05,241/- for the financial year 2008-2009, the respondent filed a complaint under Section 200 Cr.P.C and Section 276B r/w 278B of the Income Tax, 1961 before the learned Chief Judicial Magistrate, Madurai. Challenging the same, the petitioners filed this quash petition. The learned counsel for the petitioners seeking a direction to the respondent

to consider the petitioner's application for compounding the offence punishable under Section 276B of the Income Tax Act. Perusal of the records shows that though the respondent/Income Tax Department had given an opportunity to the petitioners for compounding the offence, the petitioners failed to pay the compounding fees within the time prescribed by the Department ie., on or before 19.05.2017. Hence, their application for compounding the offence was rejected on 27.07.2017. But without challenging the said order, the petitioners came up before this Court for the similar relief, which is not acceptable one. Hence, this petition is liable to be dismissed.

7.In the result, this Criminal Original Petition is dismissed with liberty to the petitioners to canvass all the points before the trial Court in the manner known to law. Consequently, connected miscellaneous petitions are closed.

11.03.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
PJL

M.DHANDAPANI. J

PJL

To
The Chief Judicial Magistrate, Madurai.

CRL OP(MD) No.8842 of 2022

Date : 11.03.2024