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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CRL.M.C. 4720/2019 & CRL.M.A. 36163/2019**

M/S. RISHABH AGRO INDUSTRIES LTD. & ANR. ..... Petitioners

Through: Mr. Dinkar Singh & Mr. C S Chauhan, Advs. (through VC)

versus

REGISTRAR OF COMPANIES NCT OF DELHI & HARYANA ..... Respondent

Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar, Mr. Abhinav Bhardwaj & Mr. K. Manaswini, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **23.01.2024**

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973, *inter alia*, praying as under:

> *a. Quash the complaints bearing Nos. 192-193/3 & 196-197/3 filed by the ROC under Sections 162/220 read with Section 220 (3) of the Companies Act, 1956 before the Ld. ACMM, Tis Hazari Court, Delhi as the Petitioners have complied with all the conditions in accordance with the Condonation of delay Scheme, 2018 and filed its all Balance sheets and Annual Returns along with the all penalties as intimated by the Registrar of Companies, Ministry of Corporate Affairs wherein it was specifically provided that the "Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court{s) for all documents filed under the Scheme.*
> *b. Set aside the order dated 13.03.2006 passed by the Ld. ACMM, Tis Hazari Court, Delhi issuing direction for warrant of attachment against the Petitioner No.l;*
> *c. Set aside the order dated 18.12.2009 passed by the Ld. ACMM, Tis Hazari Court, Delhi declaring Petitioner No. 2 as*

Proclaimed Offender; Or
d. Pass such further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.

2. The complaints sought to be quashed, bearing CC Nos. 192-193/3 and 196-197/3, were filed alleging that the petitioners had not complied with the statutory requirements under the Companies Act, 1956. The petitioners had not filed the Balance Sheet and Profit and Loss Account of the petitioner company (Petitioner No.1) for the period ending on 31.03.2003 and 31.03.2004 respectively.

3. The learned counsel for the petitioners submits that a reference, under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (‘**SICA, 1985**’), was filed by the petitioner company before the Board for Industrial and Financial Reconstruction (‘**BIFR**’). He submits that the petitioner company was sick and was not carrying out its functions which led to filing of the said reference before the BIFR. The BIFR, by order dated 01.12.1997, declared the petitioner company to be a sick industrial company under Section 3(1) of SICA, 1985. He further submits that the BIFR, by order dated 17.12.2003, recommended winding up of the petitioner company, and forwarded the said opinion to the Hon’ble High Court of Punjab and Haryana.

4. He submits that the Hon’ble High Court of Punjab and Haryana by order dated 09.04.2004 accepted the recommendation of BIFR and directed the petitioner company to be wound up under the provisions of the Companies Act, 1956. By the said order, an Official Liquidator was also appointed. The order dated 09.04.2004 was ultimately recalled by the Hon’ble High Court of Punjab and Haryana by a subsequent order dated 29.04.2011.

5. He submits that it was the Official Liquidator who had taken charge of the petitioner company between 2004 and 2011. He further submits that Petitioner No. 2, being the person responsible for the affairs of petitioner company, was not aware of the filing of the complaints by the respondent before the learned Additional Metropolitan Magistrate (hereafter '**the learned AMM**') and came to know of it only in the year 2018 when the coercive orders were passed by the learned AMM.

6. He submits that, even otherwise, pursuant to the Condonation of Delay Scheme 2018, issued by the Ministry of Corporate Affairs, the petitioner company has fulfilled all the statutory compliances. He further submits that the relevant statutory forms for the period from 2013 till 2018 have already been filed and the monetary fines have also been paid.

7. The learned counsel for the respondent, at the outset, submits that the offences punishable under Sections 162/220 read with Section 220(3) of the Companies Act, 1956, are compoundable, and the petitioners can file an appropriate application for compounding of the same.

8. It is not disputed that the statutory compliances have been met by the petitioners.

9. Considering the fact that the present petition has been pending before this Court since 2019, this Court does not consider it apposite to relegate the petitioner back to the learned Trial Court for compounding of the offences as the same would be an abuse of the process of the Court, and would further waste the precious time of the Court.

10. In view of the above, and the fact that all the statutory compliances have already been fulfilled and the statutory fines for the purpose of late filing have already been paid, the

complaints, bearing CC Nos. 192-193/3 and 196-197/3, and all proceedings emanating therefrom, are quashed.

AMIT MAHAJAN, J

JANUARY 23, 2024
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