

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

Appeal No.246/2017

IN THE MATTER OF:

Pr. Commissioner of Income Tax, Delhi-6 Applicant/petitioner
(M/s. MCS Exim Private Limited)

Vs.

Registrar of Companies Respondent

Order under Section 252(1) of the Companies Act

AND

Appeal No.247/2017

IN THE MATTER OF:

Pr. Commissioner of Income Tax, Delhi-6 Applicant/petitioner
(M/s. Mbizsun Logistics Private Limited)

Vs.

Registrar of Companies Respondent

Order under Section 252(1) of the Companies Act

AND

Appeal No.248/2017

IN THE MATTER OF:

Pr. Commissioner of Income Tax, Delhi-6 Applicant/petitioner
(M/s. Mega Lube India Technology)

Vs.

Registrar of Companies Respondent

Order under Section 252(1) of the Companies Act

AND

Appeal No.249/2017

IN THE MATTER OF:

Pr. Commissioner of Income Tax, Delhi-6 Applicant/petitioner
(M/s. Medof Integrated Services Private Limited)

Vs.

Registrar of Companies Respondent

Order under Section 252(1) of the Companies Act

Order delivered on 21.12.2017

Coram:

CHIEF JUSTICE (Retd.) M.M. KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Applicant/petitioner: Mr. Zoheb Hussain, Senior Standing Counsel for
Income Tax Department
For the Respondent: Ms. Aparna Mudiam, AROC
Mr. Manish Raj, Company Prosecutor

ORDER

This order shall dispose of the interim prayer made in Appeal No. 246/2017, Appeal No. 247/2017, Appeal No. 248/2017 & Appeal No. 249/2017 as the common question of facts and law has been raised. For convenience the facts are being taken from Appeal No. 246/2017. In this case the respondent company namely M/s. MCS Exim Private Limited has been struck off by the Registrar of Companies by adopting the dubious procedure which does not conform to the provisions of Section 248 of the Companies Act, 2013. The document which have been supplied to us show that the Chief Commissioner of Income Tax, Central Revenue Building, New Delhi and the Chief Commissioner of Income Tax, Sector-2, Panchkula, Haryana were asked to issue no objection certificate or objection if any with regard to the companies which was provided with a link of 27291 companies whose names were listed on that link. The notices sent to the Chief Commissioner of Income Tax, New Delhi and the Chief Commissioner of Income Tax, Sector-2, Panchkula, Haryana do not disclose the material particulars of the assessee i.e. M/s. MCS Exim Private Limited as there is neither any PAN number or any

detail of the Jurisdictional Assessing Officer. All these details are required to be divulged if any lawful notice is to be served on the revenue. In the present case the Principal Commissioner of Income Tax, New Delhi has stated that there is notice for assessment under Section 148 of the Income Tax Act for a sum of Rs. 31,34,500/-. If the interim relief is not given then the demand cannot be raised and it will become time barred on 31.12.2017.

Keeping in view that there is a prima-facie case as no notice in the eyes of law was given to the Income Tax Department. Moreover, the Registrar of Companies has proceeded to strike off the names of the 27291 companies which were detailed in the link. Therefore, we direct that the company would be deemed to be restored to its original number and the petitioner-revenue will be entitled to raise the demand by serving notice in accordance with law.

The notice on the company has not been served and the notices issued have returned back to the Appellant-Principal Commissioner.

Let the petitioner make other attempt to serve the company and its Directors before the next date of hearing.

Notices be given dasti.



A copy of the order be given dasti under the signatures of the Bench officer.

List for further consideration on 19.02.2018.

Sd/-
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-
(DEEPA KRISHAN)
MEMBER(TECHNICAL)

21.12.2017
VINEET