

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Review No.152 of 2015**

**In**

**COMP. APP. DB 3 of 2015**

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M/s Shell Life Sciences Pvt. Ltd., a company registered and incorporated under the companies Act. 1959 and having corporate office at Shop No. 16, Sri Krishna Building, Kamla Vihar Sports Club Lane, Mahavir Nagar, Kandivali, Mumbai (W) – 67 through its Director Kiran Chandra Kant Thakkar.

.... .... Petitioner

Versus

1. M/s Aglowmed Limited, a limited company incorporated under the provision of the Companies Act, 1956, having its registered office at Exhibition Road, P.S. - Gandhi Maidan, Patna, Bihar through its authorized signatory Sri Manoj Kumar, S/o Sri Madhaw Prasad, resident of Mohalla Chhoti Badalpur, P.S. Danapur, District- Patna.

.... .... Appellant/Opposite Party

2. The Official Liquidator Patna High Court ,4th Floor, Block- A, Mauryalok Complex, Dak Bungalow Road, Patna P.O. G.P.O., P.S. Kotwarli, Town and District Patna.

.... .... Respondent No.1/Opposite Party

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**Appearance :**

For the Petitioner : Mr. Laxmi Narayan Das, Advocate

Mr. S. De, Advocate

For the Opposite Party No.1: Mr. P. C. Agrawal, Advocate

For the Opposite Party No.2: Mr. Alok K. Agrawal, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL ORDER**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

2      09-09-2015                      Heard Mr. Laxmi Narayan Das, learned Counsel, appearing for the petitioner, and Mr. P.C. Agrawal, learned Counsel, appearing for the opposite party No.1. We have heard also Mr. Alok K. Agrawal, learned Counsel, appearing for the opposite party No.2.

M/s Aglowmed Limited is a company registered under the Companies Act, 1956 (hereinafter referred to as

Opposite Party No. 1)

With the help of this review petition, the petitioner, which is also a company registered under the Companies Act, 1956, has sought for review of the order, dated 04.03.2015, passed in Company Appeal (DB) No. 3 of 2015, which arose out of Company Petition No. 3 of 2013.

The review petitioner, namely, M/s Shell Life Sciences Pvt. Ltd., had, as a creditor of Opposite Party No. 1, namely, M/s Aglowmed Limited, filed Company Petition No.3 of 2013 under Section 433(e) read with Section 434 (1)(a) and Section 439(1)(b) of the Companies Act, 1956, and Rule 95 of the Company (Court) Rules, 1959, seeking winding up of the Opposite Party No. 1, namely, M/s Aglowmed Limited.

Though the Opposite Party No. 1 had appeared in the Company Petition No.3 of 2013, it failed to file necessary affidavit in defence and contest the proceedings, which had been so initiated under Section 433 (a) of the Companies Act, 1956, for winding up of the company, namely, M/s Aglowmed Limited. Consequently, order, dated 05.02.2015, was passed in Company Petition No.3 of 2013 directing that the company (i.e., Opposite Party No. 1) be wound up.

Against the order, dated 05.02.2015, the Opposite

Party No. 1 preferred an appeal, which gave rise to Company Appeal (DB) No. 3 of 2015.

By the order under review, dated 04.03.2015, a Division Bench of this Court set aside the order, dated 05.02.2015, and allowed the Opposite Party No. 1 to contest the proceeding subject to deposit of a sum of Rs. 4,00,000/- with the review petitioner, who was the second respondent in the said appeal.

However, in the order, dated 04.03.2015, while coming to the conclusion that the appeal ought to be allowed, it was observed as follows:

*“Across at Bar it is stated that the actual amount due to the 2nd Respondent is Rs.3,80,136/-, though higher amount is claimed. We are of the view that the ends of justice would be met if the appellant is given an opportunity to contest subject to the condition that it will pay a sum of Rs.4,00,000/- to the 2nd Respondent.”*

From a bare reading of what has been reproduced, it transpires that it was treated to be the admitted case even of the second respondent, i.e., the review petitioner, that the claim of the second respondent-review petitioner was Rs.3,80,136/-,

whereas the amount due from the Opposite Party No. 1 and payable to the review petitioner, namely, M/s Shell Life Sciences Private Limited, was, according to the second respondent-review petitioner, Rs.31,25,923/-.

The above position has not been disputed before us.

Necessarily, therefore, the expression “Rs. 3,80,136/-”, appearing in the order, dated 04.03.2015, needs to be corrected and read as “Rs. 31,25,932/-”.

In view of the above and in the interest of justice, the expression ‘Rs. 3,80,136/-’ appearing in the order, dated 04.03.2015, stands corrected, and be henceforth read, as ‘Rs. 31,25,932/-’.

The review petition stands disposed of accordingly.

**(I.A. Ansari, ACJ)**

**(Vikash Jain, J)**

Pawan/-

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