

IN THE HIGH COURT OF BOMBAY AT GOA**COMPANY APPEAL NO.2 OF 2012**

Shri. Manuel Travasso
r/o. Sao Jose De Areal, Salcete-Goa. Appellant

V/s

M/s. National Auto Accessories Ltd.,
through its Official Liquidator Shri
M.M. Gupta, IFCI Limited, Room
No.22/23, 'B' Block, Mezzanine
Floor, EDC House, Dr. Dada Vaidya
Road, Panaji-Goa. Respondent

Mr. D. Pangam, Advocate for the Appellant.
Ms. Amira Razaq, Advocate for the Respondent.

CORAM : F.M. REIS, J.

DATE : 11th DECEMBER, 2015

ORAL JUDGMENT :

Though the facts in the above appeal are similar to the facts in the Company Appeal no.1/2012 which came to be disposed of today, there are additional grounds recorded by the Official Liquidator while rejecting the claim of the appellant.

2. The Official Liquidator has taken note of the fact that the appellant had approached the Labour Court way back in the year 2002 putting up a claim with regard to the arrears of his salary and wages payable by the

company in liquidation and the Official Liquidator was also party to such proceedings. The Official Liquidator raised the contention therein that such proceedings could not be proceeded without seeking leave of this Court as the Official Liquidator was already appointed and proceedings for liquidation were in progress. The appellant thereafter withdrew the application with liberty to raise the claim before the appropriate forum.

3. It is the contention of Ms. A. Razaq that after obtaining such leave the appellant did not choose to seek leave of this Court to proceed to get his claim adjudicated before the Tribunal but on the contrary chose to file a claim before the Official Liquidator in the year 2004.

4. Mr. Pangam, the learned Counsel appearing of the appellant has however pointed out that despite of the above whilst passing the order dated 17/09/2010, the learned Company Judge had directed the Official Liquidator to examine the contention of the appellant to the effect that the settlement is not valid or stands vitiated for not complying with the mandatory requirement under the Industrial Disputes Act. The learned Counsel further points out that this aspect has not been considered by the Official Liquidator whilst passing the impugned order.

5. With regard to the finding of the Official Liquidator that merely because the appellant had proceeded to file an application to put up the claim before the Labour Court would preclude the appellant to raise a dispute with regard to the validity or otherwise of the settlement, I find that it is not a matter which can be adjudicated by the Official Liquidator as in any event this aspect can be considered by the competent Court/Tribunal in case the appellant raises such claim before the appropriate forum under the Industrial Dispute Act. This contention of the parties on that count is left open to examine after hearing the parties in accordance with law.

6. Subject to the above and for the reasons in the order passed in Company Appeal No.1/2012, the appeal stands rejected. Needless to say, the finding in the impugned order will not come in the way of the appellant to get their claim adjudicated on its own merits. All contentions of both the parties with that regard are left open.

F.M. REIS, J.

NH/-