

Western India Marine Corporation	...	Petitioner
versus		
M/s. Bharati Shipyard Limited	...	Respondent

Mr. Sachin Chandarana with Ms. Lipsa Unadkat i/by M/s. Manilal Kher Ambalal and Co., for Edelweiss Asset Reconstruction Co. Ltd.

CORAM: S.J. KATHAWALLA, J.
DATE: 10th MARCH, 2015

P.C.

1. Heard the learned Advocates for the parties and by consent, the following order is passed :

(i) The Company undertakes to pay an amount of Rs.30,64,100/- to the Petitioner in full and final settlement of the Petitioner's claim against the Respondent Company and the Petitioner has agreed to accept the said offer. The Company undertakes to pay the said amount of Rs.30,64,100/- to the Petitioner as follows :

- a) Rs.2,55,333/- on or before 15-04-2015
- b) Rs.5,10,000/- on or before 15-06-2015

c) Balance amount of Rs.22,98,101/- shall be paid in Nine monthly installments of Rs.2,55,333 payable on or before the fifteenth day of each month commencing from 15-07-2015 and ending on 15-03-2016.

(iii) The Company undertakes that all payments to the Petitioners shall be made by RTGS/NEFT/Demand Draft/Account Payee Cheque to the Petitioners on or before the aforementioned dates.

(iv) In the event of the Company making the aforesaid payment to the Petitioner as undertaken hereinabove, the parties shall have no claims against each other in the above Petition.

(v) The Company undertakes to this Court that the Company shall continue to be bound and liable to pay the amounts as agreed herein, even if the Company seeks and obtains protection under the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) or under the Bombay Relief Undertaking Act. The Company further undertakes that such protection shall also not preclude the Petitioner to pursue the winding up proceedings in case of default. The Company shall forward a copy of this order to the appropriate authorities before whom a reference or Application is already filed or is desirous of filing. The undertaking is accepted.

(vi) In the event of the Company committing any default in

payment of the aforesaid amounts, the Company Petition shall without reference to this Court be revived, stand admitted, made returnable within six weeks from the date of default and advertised in two local newspapers i.e. Free Press Journal (in English) and Navshakti (in Marathi) and in the Maharashtra Government Gazette. The Petitioner shall deposit an amount of Rs.10,000/- with the Prothonotary and Senior Master of this Court towards publication charges, within two weeks from the date of default, with intimation to the Company Registrar failing which the Petition shall stand dismissed for non-prosecution. In the event of any default the Official Liquidator shall forthwith stand appointed as provisional liquidator and shall immediately take charge of the records as well as the movable and immovable properties of the Company. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company.

(vii)The Company Petition as well as Company Application are accordingly disposed of.

(S.J.KATHAWALLA, J.)