

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.510 OF 2013
IN
COMPANY PETITION NO.328 OF 2013**

Peri Nitrates Pvt. Ltd.Applicant

V/s.

Alward International General Trading LICRespondent

And

Official LiquidatorRespondent

Mr.S.A.Bhalwal i/by Vyas & Bhalwal for the applicant.

Assistant Official Liquidator present.

CORAM : K.R.SHRIRAM,J

DATE : 23.12.2015

P.C.:-

1 This petition was disposed pursuant to an order dated 13.6.2013. The parties have filed consent terms whereby the company had agreed to pay sum of US\$ 1,45,500 in three installments.

2 In the order dated 12.12.2013 passed in this company application the court has recorded in para-1 as under :-

“The learned counsel for the respondent-original petitioner states that the amount claimed in the petition has been received by the petitioner. The applicant states that the amount of USD 10,000 will be transferred to the account of the original petitioner.”

3 The counsel for the company states that the amount of USD 10,000 mentioned was towards cost and the amount has been paid. The counsel undertakes that they will file an affidavit to this effect with details of proof of payment within 2 weeks from today. Therefore, the issues in the petition have come to an end.

4 The company has filed this application for discharge of the official liquidator who was appointed as provisional liquidator. Though the prayer in the application is not very happily worded, the gist of the application, considering the affidavit in support, is that the provisional liquidator be discharged. The liquidator has filed an affidavit dated 28.7.2014 in which he had listed the claims that he had received from various parties. The official liquidator has also filed an additional affidavit in reply dated 1.12.2015.

5 The official liquidator today has given a statement which is taken on record and marked "X" for identification listing therein 7 objections and the status of compliance.

Sr. No.	Particulars	Ramarks
1	No Dues Certificate in regard to payment to the Original petitioner	Not produced in original. However, Xerox copy shown to me.
2	No Objection Certificate from Income Tax Department	Order dated 15.07.2015 issued by the Income Tax Department whereby they have allowed to pay the outstanding till July 2017 (every 25 th of the month). But Original not produced
3	No Objection Certificate from Employees Provident Fund Organization	Shown the letter dated 15.06.2015 issued by the Union Bank of India to Employees Provident Fund Organization furnishing two DDs amounting to Rs.3,17,834/- & Rs.30,051/-. But Original not produced.
4	Original No Dues Certificate given by the Kotak Mahindra Bank	Original No Dues Certificate shown to me.
5	No Objection letter dated 24.4.2015 issued by the SIDBI	Original No Dues Certificate shown to me.
6	No Dues Certificate issued by BLR	Original No Dues Certificate shown to me.
7	No Dues Certificate issued by the Regional Labour Commissioner (Central) Hyderabad	Not shown

6 As regards the objection at sr.no.1, Mr.Balwal has produced true copies of the order dated 12.12.2013 in which it is recorded that the petitioners' claim has been settled. Therefore, the objection no.1 is complied with.

7 As regards objection no.2 Shri Balwal has tendered the original of the order dated 15.7.2015 passed by the Tax Recovery officer-II, Pune. This objection therefore, is complied with.

8 As regards objection no.3, the counsel has tendered copy of a letter dated 15.6.2015 from Union Bank of India to the Employees Provident Fund Organization forwarding 2 demand drafts amounting to Rs.3,17,834 and Rs.30,051. The objections therefore, are complied with.

9 As regards objections 4, 5 & 6, the official liquidator confirms that they have sighted the original No Dues Certificate.

10 As regards objection no.7- the same relates to certain irregularities allegedly committed by the company. The company by its letter dated 2.8.2013 has responded to the notice dated 6.6.2013

issued by the Assistant Labour Commissioner, Hyderabad. A copy of the same is taken on record.

In any event, this issue cannot come in the way of the company getting back on its feet and the provisional liquidator being discharged.

11 In the circumstances, the official liquidator who was appointed as provisional liquidator stands discharged. This is condition upon the applicant filing the affidavit as directed above. The applicant also to pay sum of Rs.30,000/- as cost to the official liquidator and the amount to be paid within two weeks from today. Application accordingly stands disposed.

Certified copy expedited.

(K.R.SHRIRAM,J)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment/Order.**