IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION (L) NO. 499 OF 2015
IN
COMPANY PETITION NO. 283 OF 2012

Nuclear Chem Oil Pvt.Ltd. …Applicant / Orig.Respondent

In the matter between

Camlin Fine Sciences Ltd. ...Petitioner
vs.
Nuclear Chem Oil Pvt.Ltd.
and
The Official Liquidator of ...Orig.Respondent
M/s.Nuclear Chem Oil Pvt.Ltd. ...Respondent

WITH

COMPANY PETITION NO. 547 OF 2014

M/s.Yasho Industries Pvt.Ltd. ...Petitioner
vs.
M/s.Nucleus Chem Oil Pvt.Ltd. ...Respondent

Mr.Vinit Mehta i/b. Satyan Israni for Petitioner in CP 283/2012.
Mr.Deepak Shukla i/b. M/s.Vinod Mistry & Co. for Petitioner in CP 547/2014.

CORAM : S.C. GUPTE, J.

10 SEPTEMBER 2015

P.C. :

The company application seeks condonation of default in payment of instalments ordered by this Court on 5 March 2015 in Company Petition No.283 of 2012. By this order, which is a self-operative order, this Court recorded the Applicant company's undertaking to pay an amount of Rs.36 lakhs to the original Petitioner in three instalments of Rs.12 lakhs each payable, respectively, on or before 24 April 2015, 24 May 2015 and 24 June 2015. This Court also ordered that in the event of the company committing default in payment of any instalment, the company petition shall stand, without reference to this Court, revived and allowed in terms of prayer clauses (a) and (b) thereof. The company petition was disposed of in these terms. The Applicant company so far has paid only a sum of Rs.10 lakhs from out of the amount of Rs.36 lakhs.

2 There is a companion petition, namely, Company Petition No.547 of 2014. A similar self-operative order was passed on this company petition on 12 February 2015 in terms of consent terms duly signed between the parties and their respective Advocates. By this order, the Applicant company undertook to pay a principal sum of Rs.26,77,904/- together with 18% interest in a manner stated therein. Out of this amount, the Applicant company has so far paid only a sum of Rs.10 lakhs. The Applicant company has defaulted in payment of balance instalments due between 15 April 2015 and 15 August 2015. Even this order provides for admission and making absolute of the company petition and appointment of Official Liquidator in the event of a default without reference to this Court.

3 There is no denial that defaults have occurred and as a result, both these petitions have stood allowed and the Official Liquidator has stood appointed as Liquidator of the Applicant company. The application for condonation of defaults and stay of winding up proceedings was on the footing that the Applicant company was expecting certain finance shortly and proposing to reschedule the payments due to both the Petitioning Creditors after it receives a formal sanction in respect of the finance. Both petitions appeared on board on 31 August 2015 and were stood over as a last chance to the Applicant company to make good its proposal. It was made clear that by the next date, if the parties do not agree to reschedule the instalments due and payable by the company to the respective Petitioners, the winding up shall be proceeded with.

4 Today when the matter is called out, none appears for the Applicant company. There is no re-schedulement of the instalments. There is no indication of any sanction of finance. The company application is, accordingly, dismissed. It is declared that the petitions have accordingly stood allowed and the Official

Liquidator has stood appointed as Liquidator of the company in terms of the respective orders passed in the company petitions earlier.

5 The Official Liquidator has already taken symbolic possession of the assets and properties of the company and shall now proceed to take further steps as the Liquidator in winding up.

(S.C. Gupte, J.)