

Comp.A.No.749 of 2015

PUSHPA SATHYANARAYANA, J.

This application is filed seeking to set aside the rejection of proof dated 04.06.2014 to the extent of Rs.65,93,60,970.23 passed by the respondent/official liquidator and consequently, direct the respondent to consider the rejected claim on merits and pass fresh adjudication order related to the claim already made by the applicant.

2. Heard the learned counsel for the applicant and the learned official liquidator.

3. The applicant is the Administrator of the Specified Undertaking of the Unit Trust of India and UTI Trustee Company Pvt. Ltd., (UTI Mutual Fund). The applicant had subscribed to the Secured Transferable Notes (STNs) & Secured Redeemable Non-convertible Debentures (SRNCDs) as mentioned in para-9 of the affidavit. M/s.SIV Industries Limited was wound up by order dated 25.08.2004 of this Court. The applicant has stated that the claimants have not received any

amount from the Company in any manner to the satisfaction of its dues or security. The applicant also claimed to be a secured creditor on the basis of mortgage of immovable properties of the company and hypothecation of movable properties created by the company in liquidation in respect of B, D, E and J series. ICICI Bank Limited was appointed as Debenture Trustee in respect of the above NCD and STN. The company also created first charge on its immovable properties in favour of the debenture holders in pari passu with various other lenders.

4. The Company in liquidation also had committed various defaults in repayment of the term loan and also redemption of the debenture series. Hence, the BIFR had recommended for winding up of the company. Accordingly, winding up was ordered on 25.08.2004. Though the debenture trustee was appointed and the trust deed has been executed, the applicant in the capacity as secured creditor of the company in liquidation, for the above said debenture series filed its claim before the official liquidation on 03.10.2008, which is after a lapse of four years. After getting the delay condoned by this Court, the debenture trustee also had submitted a claim on behalf of the NCD

holders on 25.09.2014, which is subsequent to the claim made by the applicant.

5. The official liquidator had issued a notice of rejection of proof dated 04.06.2014 rejecting the claim of the applicant in respect of the debenture series on the ground that the same claim has already been made by the debenture trustee. The learned counsel appearing for the applicant contended that in respect of series B, D, E and J, the debenture trustee has not made any claim on behalf of the applicant. Hence challenged the order of rejection before this Court.

6. The official liquidator also has filed his report in this regard contending that already the debenture trustee had made a claim, which covers the claim of the applicant also. However, that is disputed by the applicant.

7. Be that as it may, the order passed by the official liquidator on 04.06.2014 is set aside, as the order is bereft of any details and the matter is remitted back to the official liquidator to consider

afresh. The official liquidator is directed to take up the claim of the applicant afresh and adjudicate the same. If the claim filed by the debenture trustee, viz., ICICI Bank Limited has covered the claim of the applicant, the official liquidator is directed to ensure that the claims do not overlap. Hence, the official liquidator is directed to consider the claim of the debenture trustee as well as the applicant simultaneously to avoid any overlapping of the claim by the applicant. The applicant is directed to produce before the official liquidator all documents in respect of his claim in original or otherwise and the official liquidator is directed to give personal hearing for the applicant before adjudicating the claim. The official liquidator is directed to adjudicate the claim within a period of eight weeks from the date of submission of the documents.

8. With the above directions, this Company Application is ordered.

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06.08.2015

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