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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.118 OF 2014
IN
COMPANY PETITION NO.7 OF 1971
ALONG WITH
OFFICIAL LIQUIDATOR'S REPORT NO.535 OF 2015

Maharashtra State Financial Corporation ...Applicant
And
Esso Master Industries ... Petitioner
Versus
The Official Liquidator of M/s. Glass Corboys & Pressware Ltd. ...Respondents

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Mr. C.B. Kher, *i/b. Ms. Shamika Ranade for the applicant.*
Mrs. Yogini Chauhan, *Deputy Official Liquidator, High Court.*

CORAM: G.S. PATEL, J.
DATED: 16th March 2016

P.C.

1. This order disposes of Company Application No.118 of 2014 and Official Liquidator's Report No.535 of 2015.

2. A few facts are necessary. The Applicant is the Maharashtra State Financial Corporation ("**MSFC**".) On 24th September 1963 it sanctioned A loan of Rs.10 lakhs to the Company in liquidation, M/s. Glass Corboys & Pressware Ltd. That loan was apparently for 15 year term. It carried interest at 9% pa.

3. On 15th November 1972, the Company was ordered to be wound up. In the course of that winding up, the MSFC lodged A claim with the Official Liquidator in the amount of Rs.3,39,54,967/. In making this claim, the MSFC computed interest from the date of sanction of the loan all the way to the date of submission of its claim on 24th September 2008.

4. The Official Liquidator assessed the claim. He adjudicated it in an amount of Rs.50,47,750/-. Of this, Rs.10 lakhs was the principal, Rs.8,22,750/- was interest till the date of the order of winding up on 15th November 1972 and Rs.32,22,000/- was interest from the date of the winding up order 16th November 1972 till the date of filing of the claim on 24th September 2008.

5. The result was that MSFC's claim was adjudicated in an amount which was roughly one-sixth of what had submitted. MSFC, therefore, filed the present Company Application seeking re-adjudication of its claim.

6. As things turn out, this is something that works to MSFC's disadvantage. It is a sort of self-goal. Faced with the Company Application, the Official Liquidator re-examined the claim. He found that far from being underpaid, his original computation was incorrect and MSFC had been overpaid. It was entitled to only Rs.20,19,175/-. This was because interest could not have been allowed beyond the date of the winding up order.

7. This is the reason why the Official Liquidator has filed OLR No.535 of 2015. In this report it seeks an order in terms of paragraphs 15 and 18 to permit expunging of proof in terms of rule 176 of the Companies (Court) Rules 1959. The Official Liquidator also seeks leave to re-adjudicate MSFC's claim and also seeks a direction against MSFC to repay an amount of Rs.30,28,575/- paid in excess. This is because according to the Official Liquidator on a correct computation MSFC is today entitled only to an amount of Rs.20,19,175/-. However, the amount already paid out to MSFC is Rs.50,47,750/-.

8. I do not see how I can possibly allow MSFC's Company Application. It will have to be dismissed. The entire basis of the claim is incorrect and untenable. But the consequence of this Company Application is that the Official Liquidator's Report will have to be allowed at least at part. The Liquidator must be permitted to expunge the proof as required in Rule 176 of Companies (Court) Rules.

9. There is no reason to direct a further re-adjudication of MSFC's claim. That is as already been done in the present Official Liquidator's Report.

10. The Official Liquidator's Report is, therefore, made absolute in these terms and in terms of prayer clause (e) which directs MSFC to pay an amount of Rs.30,28,575/- with interest from the date of payment by the Official Liquidator to MSFC till realisation. The Official Liquidator shall on or before 31st March 2016 communicate to MSFC the amount required to be refunded or repaid to the Official Liquidator and showing the break-up of interest calculation as well. MSFC will make payment of this amount within four weeks from 31st March 2016. The amount shall carry interest at the same rate till payment or the realisation.

11. At this stage, a request is made by Mr.Kher on behalf of MSFC seeking a stay of this order for eight weeks. This is unreasonable given what MSFC is, the nature of its application and the nature of its claim. The application for stay is rejected.

(G. S. PATEL, J.)