

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL JURISDICTION**

**COMPANY APPLICATION NO.363 OF 2013  
IN  
COMPANY PETITION NO.170 OF 1996**

Maharashtra State Financial  
Corporation (MSFC)

... Applicant

Jayant Mohanlal Raval of Mumbai  
Versus

... Petitioner

The Official Liquidator of M/s Fluid  
Air (India) Ltd (in liquidation)

... Respondent

.....

Mr. C.B. Kher for the Applicant.

Mr. Naushad Engineer for Official Liquidator.

Ms. Purnima Awasthy for ROC/Respondent No.2.

Mr. Mahendhar Aithe, Company Prosecutor for the Official Liquidator  
present.

.....

**CORAM : A.K. MENON, J.**

**DATE : 19 OCTOBER, 2016**

**P.C. :**

1 The Corporation which is the Applicant in the present application was unable to furnish copies of Forms 8 and 13, which the Applicant contends had been filed as by way of registration of a charge in its favour. The Official Liquidator, however, contended that the Applicant was not a secured creditor for want of proof of filing the said Forms by way of creation of the charge. On 28 September 2016, learned Counsel appearing on behalf of the Registrar of Company filed an Affidavit, which states that Forms 8 and 13 had indeed been filed in the year 1993, but the same are

not now traceable in the records maintained by office of the Registrar of Companies because the Form No.8 and Form No.13 were probably misplaced during shifting of the ROC records from Kala Chowki office to Belapur office or during scanning. The Affidavit goes on to state that Registrar of Companies has also maintained a register of forms which is available. Copies of relevant pages of the register are annexed to the affidavit. This extract shows that on 5 June 1993 under Serial No.61, a charge in favour of the Applicant in a sum of Rs.54,00,000/- is seen to be registered.

2 Ms. Awasthy, the Learned Counsel for the Registrar of Companies confirms that this is the very entry in question and in respect of which forms are presently not available. In view of this disclosure, Mr. Naushad Engineer, Counsel for the Official Liquidator states that controversy must now rest and the Applicant will be treated as a secured creditor.

3 Mr. Kher, learned Counsel for the Applicant states that since the applicant will be treated as a secured creditor, he has instructions to withdraw the application especially since the Applicant's claim has already been adjudicated and the Applicant is satisfied with the adjudication.

4 In view of the above, the following order is passed.

- (i) Company Application is allowed to be withdrawn.
- (ii) No costs.

( A.K. MENON, J.)