

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION (L) NO.690 OF 2016
IN
COMPANY PETITION NO.985 OF 2014

Hi Tech Engineering Corporation India Pvt. Ltd.

...Petitioner

Versus

DMSONS Metal Pvt. Ltd.

...Respondent

Mr.Shriram Kulkarni for Applicant.

Mr.Anil Agarwal for Petitioner.

Mr.Vinod Sharma, Official Liquidator.

CORAM : A.K. MENON.

DATE : 20th OCTOBER, 2016.P.C.:

1. By this application, the applicant, which is the respondent-company, seeks extension of time to pay the first four installments referred to in Annexure-II of the consent terms.

2. Mr. Kulkarni, learned counsel appearing on behalf of the applicant states that although the first payment of Rs.47,93,028/- has already been paid over, the four installments due on 30th June 2016, 31st July 2016, 31st August 2016 and 30th September 2016 could not be paid due to reasons as set

out in the affidavit-in-support and in paragraph 14. Mr. Agarwal, learned Advocate appearing on behalf of the petitioner has no objection to extension of time. He confirms having received two Demand Drafts for first two installments and three Demand Drafts which collectively represent the value of the four overdue installments. Mr. Kulkarni further states that, in view of the fact that the Petitioner has now agreed to accept this payment, no further extension will be sought on behalf of company and it is on this basis that he seeks extension of time.

3. The learned counsel appearing on behalf of the company states that aforesaid cheques have been treated to be in substitution of the first four installments referred to in the Annexure II. Mr.Kulkarni submits that cheques for Rs.16,78,928/- of ICICI bank will be honoured on presentation. The statement is accepted as an undertaking on behalf of respondent company whose President is present in Court. The Official Liquidator, who is present in the Court, states that pursuant to his appointment as Provisional Liquidator, he was scheduled to take possession on Friday, 21st October, 2016. Accordingly, I pass the following order:

- (i) The delay in payment of the first four installments of the Annexure-II is condoned.
- (ii) The order of admission of the petition shall stand in abeyance. However, if any further default is committed including in default honouring any of the cheques tendered today, the company petition shall stand admitted and shall be made returnable within six weeks.

- (iii) Save and except the extension of time, rest of the terms of the consent term dated 20th April, 2016 shall continue to operate.
- (iv) In view of extension of time hereby granted, the Liquidator shall not now proceed to take possession, but upon any further default shall proceed to take possession of the company's assets and books and properties.
- (v) The company application stands disposed of in the above terms.

(A.K. MENON, J.)