Company Application No.497 of 2016
in
Company Petition No.17 of 2014

RAJIV SHAKDHER, J.

1. Issue notice. Mr.Ramaiyah,Official Liquidator is present in Court and hence he accepts notice.

2. Mr.Ramaiyah says that in view of the prayer sought in the application, no reply is necessary to be filed to the captioned application.

3. The relief sought in the application is in the form of a direction sought from this Court, vis-à-vis, the respondent, i.e ., the Official Liquidator, to the effect that Claim No.3206 AR IV, dated 30 November 2015, be processed without insistence on issuance of an No Objection Certificate *(in short NOC),* from the debenture trustees, i.e., ICICI Bank Limited and Axis Bank Limited.

4. It is not in dispute that vide communication, dated 30 November 2015, issued by the Official Liquidator, it has been communicated to the applicant that its claim has been admitted to the extent of 41,10,27,675/- against debentures, in respect of which, as indicated above, ICICI Bank Limited and Axis Bank Limited are trustees.

4.1. The very same communication also indicates that a sum of Rs.24,83,33,295/- has been admitted as an ordinary claim pertaining to 16.5% non convertible debentures of Rs.1000 lakhs, on account of the fact that no security/ charge was created.

4.2. Insofar as the second part of communication is concerned, the applicant has no grievance. It is the first part of the communication, to which I have made a reference above, that the applicant has a grievance.

5. Mr. Ravi, who appears for the applicant submits that the grievance is with regard to the insistence on the part of the Official

Liquidator on an NOC being furnished by the two debenture trustees referred to above.

5.1. Learned counsel for the applicant has, in support of his submission, referred to the directions issued by the Division Bench of this Court, vide order dated, 6 August 2015, passed in Company Application No.749 of 2015, which was, preferred in company petition 17 of 2014.

5.2. It is the submission of the learned counsel for the applicant that since there is no dispute about the fact that, there is no overlap in the claim preferred by the applicant, and claim preferred by the two debenture trustees, vis-a-vis the applicant, there should be no insistence on an NOC being furnished in the matter.

6. Mr.Ramaiyah, on the other hand, submits that the two debenture trustees have, in respect of other creditors , lodged their claims and, therefore, NOC is being sought in the matter.

7. To my mind, the matter ought to be governed by the directions issued by the Division Bench in the order dated 06 August 2015. For the sake of convenience, the operative portion of the directions issued are set out herein below:

> 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.

7.1. The operative directions clearly oblige the Official Liquidator to consider the claim of the applicant afresh and adjudicate upon the same. The Division Bench has also distinctly indicated that if, the claim filed by the debenture trustee, i.e. ICICI Bank Limited, covers the claim of the applicant, the Official Liquidator would ensure that the claim of the applicant did not overlap.

7.2. Accordingly, the Division Bench directed the Official Liquidator to consider the claim of the debenture trustees as well as that of the applicant, simultaneously, to avoid an overlap.

7.3. I may also note that insofar as ICICI bank is concerned, as far back as 09 April 2004, it had written to the company in liquidation that it was unable to act as a trustee, vis-à-vis, debentures concerning the applicant and, therefore, it would be free to appoint another trustee.

7.4. As a matter of fact, ICICI Bank Limited, vide letter dated 24 September 2013, informed several creditors including the applicant herein that since SIV Industries Limited was ordered to be wound up, vide order dated 25 August 2004**,** and given the fact that Official Liquidator was appointed, it should lodge its claim directly with the Official Liquidator.

7.5. To be noted insofar as other trustee is concerned, i.e., Axis Bank Limited, on 14 December 2015, the applicant evidently sought information from it, as to whether or not it had taken any action with regard to the submission of its claim with the Official Liquidator.

7.6. Axis Bank Limited, it seems, vide return mail, informed the applicant that its records reveal that no claim had been filed with the Official Liquidator.

8. Mr. Ramaiyah, learned Official Liquidator has confirmed that insofar as claims, which are subject matter of the communication, dated 30 November 2015, there is no overlap. In other words, the two debenture trustees, i.e., ICICI Bank Limited and Axis Bank Limited have not filed claims in that behalf.

9. Having regard to the aforesaid, I am inclined to agree with the learned counsel for the applicant that the insistence on an NOC being obtained from the aforementioned debenture trustees, i.e., ICICI Bank Limited and Axis Bank Limited, is not called for.

10. Accordingly, the prayer made in the application is allowed. Needless to say, the Official Liquidator will make disbursements in accordance with law, after taking into account the rights of other creditors as well.

10.1. The captioned application is disposed of.

10.2. The Official Liquidator will endeavor to complete the exercise at the earliest, though, not later than eight weeks from the date of receipt of a copy of this order.

ga 02.6.2016

RAJIV SHAKDHER, J.

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Comp.Application No.497 of 2016
in
CP.No.17 of 2004

02.06.2016