

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

C.P.No.274 of 2015
and Comp.Appl.Nos.669 and 670 of 2015

NIK SAN Engineering Company Limited
Rep.by the Chief Executive (Marketing)
Mr.Nirmal Kumar Agarwal
No.19, R.C.Patel Industrial Estate
Akota, Vadodara - 390 020
Gujarat

.... Petitioner

..Vs..

M/s. Easun Reyrolle Limited
Temple Tower, 6th Floor
No.672, (Old No.476)
Anna Salai, Nandanam
Chennai, Tamil Nadu 600 035

.... Respondent

Petition filed under Section 433 (e) and (f), 434 (1) (a) and 439 (1) and (b) of the Companies Act 1956 for winding up of the respondent company.

For Petitioner : Mr.V.Venkadasalam

For Respondent : Ms. S.Deepika

ORDER

1. Vide order dated 28.7.2016, I had given my *prima facie* view in the matter.

1.1. After hearing the submission of the learned counsel for the parties and examining the records, I had come to the conclusion that the respondent company owed at least a sum of Rs.78,01,669/- to the petitioner.

1.2. Accordingly, a time frame of two weeks was granted to the petitioner on that date to deposit the said sum, i.e., Rs.78,01,699/-.

2. Consequent thereto, the respondent company, I am told, has deposited a sum of Rs.78,01,669/- with the Registrar General of this Court.

3. The matter has, thereafter, been hanging fire on the issue of interests sought for by the petitioner. The parties have not been able to arrive at any consensus, on the aspect of interest.

4. The petitioner, in fact, had demanded, simple interest at the rate of 12%.

5. The learned counsel for the respondent company says that no interest is payable, as it has certain counter claims against the petitioner, though, concededly, no proceedings have been initiated in that behalf.

5.1. The counter affidavit filed on behalf of the respondent company only refers to a reply dated 23.07.2014, wherein there is a reference to the defects in the goods supplied.

5.2. As noticed, in the order dated 26.08.2016, this appears to be an after thought.

5.3. Furthermore, no documents were filed in support of this plea.

6. Given these circumstances, the counsel for the petitioner says that, if, there are any claims to be made by the petitioner with regard to interest, the petitioner will take recourse to an appropriate remedy.

7. Counsel for the respondent company says that, insofar as the respondent company is concerned, only a sum of Rs.78,01,669/- is payable.

7.1. It is stated that, if any further claims are raised, they will be contested on merits.

7.2. Furthermore, counsel for the respondent company says that the respondent company itself proposes to file proceedings for recovery of sums on account of supply of defective goods as adverted to in its reply dated 23.7.2014.

8. Thus, having regard to the circumstances set out above and the submissions made by counsels, the Company Petition is closed with a

direction to the Registrar General to release the sum of Rs.78,01,669/- to the petitioner along with interest, if any, accrued.

9. Needless to say, the parties will be free to take recourse to appropriate proceedings, if so advised, with regard to further claims and counter claims.

10. Accordingly, the accompanying applications are also closed.

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06.10.2016

RAJIV SHAKDHER, J.

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