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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.A(SB) 64/2014**

M/S POYSHA OXYGEN PRIVATEB LTD.Appellant

Through: Mr. Abhishek Puri, Mr. Sahil Grewal
and Mr. Ajaypal Singh, Advocates

versus

OFFICE LIQUIDATORRespondent

Through: Ms. Ruchi Sindhwani, Sr. Standing
Counsel with Ms. Megha Bharara,
Advocate for OL

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **09.07.2024**

CO.APPL. 603/2024 (Seeking clarification of order dated 12th April, 2019)

1. The instant application has been filed by the applicant seeking following reliefs:

“a) it may kindly be clarified that in terms of Rule 179 of the Company Court Rules, 1959, satisfaction of the Arbitral Award dated 31.07.2000 as passed in favour of the Appellant Company against Ganga Automobiles Ltd. in liquidation, from any surplus amount mentioned in the order dated 12.04.2019, shall not exceed the amount which comprises of an interest more than 4% per annum;

b) It may kindly be clarified that the Official Liquidator shall be entitled to liquidate only such assets in the winding-up process under Co. Pet. 161/1997 which are owned by the company under liquidation, i.e. M/s Ganga Automobiles Ltd.,



and shall not include the property of the Applicant, being 1, Sikandra Road, New Delhi;

c) it may kindly be clarified that the execution of award against the guarantors shall be subject to the outcome of FAO(OS) No. 455/2009 pending before the Hon'ble Division Bench of this Court;”

2. The instant application has been filed under Rule 9 of the Companies (Court) Rules, 1959 on behalf of the applicant seeking clarification of the order dated 12th April, 2019.

3. It is submitted that the applicant was not aware about admission of the appellant's claim by the Official Liquidator and the applicant was apprised about the same by way of an order dated 3rd November, 2022 passed in the execution petition filed before this Court.

4. It is further submitted that the applicant wrote several letters to the Official Liquidator seeking determine the entitlement of the appellant in accordance with law, however, the applicant did not reply to any of those letters.

5. It is submitted that over 99.9% of claim amount is based on the exorbitant and arbitrary claims of the appellant herein and its sister-concern/ Goyal MG Gases Private Limited in parallel proceedings, viz., arbitration case Nos. 79 and 80 of 1998 instituted by the appellant Company and its said sister-concern/ Poysha Oxygen Private Limited, respectively.

6. It is further submitted that the applicant Company is gravely prejudiced by the Official Liquidator having admitted the entire claim amount based on the said illegal, exorbitant and arbitrary claims of the appellant herein and its said sister-concern/Goyal MG Gases Private Limited.



7. It is contended that the Official Liquidator has interpreted the order passed by this Court which is contrary to well-established principles of law.

8. *Per Contra*, learned counsel appearing on behalf of OL submitted that the instant application is filed with *mala fide* intent as the applicant instead of any clarification, is seeking declaration/directions from this Court by way of instant application.

9. In view of the aforesaid submission, the learned counsel for the respondent submitted that the instant application being devoid of any merit may be dismissed.

10. Heard learned counsel for the parties as well as perused the contents of the application.

11. This Court is of the view that the instant application filed by the applicant in the garb of seeking clarification is actually seeking directions/declaration from this Court, which may not be given while entertaining an application seeking clarification.

12. In view of the above facts and circumstances, this Court does not find any cogent reasons to allow the instant application and accordingly, the instant application is dismissed.

CHANDRA DHARI SINGH, J

JULY 9, 2024

gs/db

Click here to check corrigendum, if any