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

COMPANY APPLICATION (L) NO.144 OF 2017
IN
COMPANY PETITION NO.830 OF 2014

Puran Singh .. Applicant

In the matter between
M/s.Megasoft Limited .. Petitioner
Vs.
M/s.Loop Mobile (India) Limited & Anr. .. Respondents

Mr.Sanskar Marathe for the applicant.
Ms.Eprita Chatterjee i/by M/s.Dholakia Law Associates for the original petitioner.

CORAM : R.D. DHANUKA, J.
DATE : 29th March 2017

P.C. :

. The papers are allowed to be produced at 3.00 p.m. in view of the extreme urgency.

2. Learned counsel appearing for the applicant, Ex-Director of the respondent company (in liquidation) states that the papers and proceedings of this company application and the notices have been served upon the official liquidator.

3. By this company application, the applicant seeks permission to prepare and file statutory Income Tax Returns for the financial year 2014-15 (assessment year 2015-16) on behalf of the respondent company (in liquidation) before 31st March 2017 being last date for filing.

4. It is submitted by the learned counsel that as per the last in house assessment before the order passed for winding up, the respondent (in liquidation) is entitled to refund of tax paid as per the rules. He submits that if the income tax returns for assessment year 2015-16, if filed, by the official liquidator or by the applicant on behalf of the respondent-company (in liquidation), the respondent company may be eligible to get refund approximately Rs.12.50 crore which will come to the aid and benefit of the statutory creditors and also unsecured creditors. It is submitted that since the official liquidator is in control of all affairs of the respondent company, the said tax refund would be credited to the account of the official liquidator.

5. It is submitted by the learned counsel that if this Court directs the official liquidator to file income tax returns for the assessment year 2015-16 on behalf of the respondent company (in liquidation), the applicant would assist the official liquidator for filing of such returns on or before the last date i.e. 31st March 2017.

6. In view of the fact that the respondent company (in liquidation) has to file income tax returns for the assessment year 2015-16 on or before 31st March 2017 and if not filed, the company (in liquidation) will loose the benefit of making such application for such refund after due date.

7. I am inclined to accept the request of the applicant, Ex-Director to direct the official liquidator to file income tax returns for the assessment year 2015-16 of the respondent company (in liquidation) on

or before 31st March 2017 on the condition that the applicant provides all requisite assistance for filing such income tax returns before the due date. It is made clear that the official liquidator will not be responsible for any incorrect statement, if any, made in the income tax returns and Ex-Director alone would responsible for the same. If any expenses are incurred by the official liquidator for filing such income tax returns, the same shall be borne by the Ex-Director. If the Income Tax Department finds any amount refundable to the respondent company (in liquidation) for the assessment year 2015-16 upon making an assessment, refund if any shall be issued in the name of the official liquidator of this Court and not in the name of the Ex-Director.

8. Learned counsel for the applicant states that for filing income tax returns for the assessment year 2015-16, though the applicant may not insist for inspection of records relating to the filing of income tax returns from office premises of the respondent presently in possession of the IDBI Ltd. but if the applicant proposes to file income tax returns of the respondent company (in liquidation) for the subsequent assessment year, the applicant may be permitted to take inspection of the records. Statement is accepted. If any such application for inspection of records is made by the applicant before the official liquidator, the official liquidator shall submit a report before this Court for taking appropriate directions.

9. Company application is disposed of in aforesaid terms. Parties are at liberty to apply. The official liquidator to act on the authenticated copy of this order.

R.D. DHANUKA, J.