

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 418 OF 2016
IN
COMPANY PETITION NO. 804 OF 2014

Interglobe Technology Quotient Pvt.Ltd. Applicant

IN THE MATTER BETWEEN

M/s.Ezeego One Travel and Tours Ltd. Petitioner

VERSUS

One Shop Stop Retail Pvt. Ltd. Respondent

Mr.Madhur Rai, i/b. Mr.Sandeep Manubarwala for the Applicant.

Mr.Mahendra Aithe, Company Prosecutor for O.L.

CORAM : R.D. DHANUKA, J.

DATE : 9th JANUARY, 2017

P.C.

By this application filed under section 446 of the Companies Act, 1956, the applicant seeks leave to proceed against the respondent in Arbitration Petition No.92 of 2015 filed by the applicant before Delhi High Court under section 11 of the Arbitration and Conciliation Act, 1996.

2. It is not in dispute that by an order dated 24th June, 2015 this court in Company Petition No.805 of 2014 has ordered winding up of the respondent company. The applicant claims to be one of the unsecured creditor. The matter was adjourned on the last occasion to enable the learned counsel for the applicant to take instructions whether the applicant would bear the litigation cost of the Official Liquidator by impleading him in the Arbitration Petition No.92 of 2015 which proceedings are filed before Delhi High Court. The learned company

prosecutor submits that the applicant be directed to file a claim before the Official Liquidator in Company Petition No.804 of 2014 instead of granting leave to the applicant to implead the Official Liquidator before the Delhi High Court in the arbitration petition filed by the applicant if the applicant is unable to pay the litigation cost as may be borne by the Official Liquidator.

3. Learned counsel for the applicant today states that his client is unable to make any statement before this court whether applicant would bear the litigation cost as may be borne by the Official Liquidator for defending the Arbitration Petition No.92 of 2015 and thereafter the arbitral proceedings as and when proceeded with before the learned arbitrator if any appointed by the Delhi High Court.

4. In my view since the respondent company is already wound up by an order dated 24th June, 2015 and since the applicant may be one of the unsecured creditor and in view of the applicant not able to make any statement to bear the litigation cost of the Official Liquidator to defend the said proceedings, I am not inclined to grant leave in favour of the applicant to implead the Official Liquidator in the said Arbitration Petition No. 95 of 2015. It is however made clear that the applicant would be at liberty to file affidavit of claim before the Official Liquidator. Company application is accordingly dismissed with liberty as directed. No order as to costs.

(R.D.DHANUKA, J.)