

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.424 OF 2017
IN
COMPANY APPLICATION NO.102 OF 2017
IN
COMPANY PETITION NO.601 OF 2009

Mr. Rajendra Khandelwal

Ex Director of Artek Organic Industries Ltd.

...Applicant.

In the matter of

Stressed Assets Stabilization Fund

And

B.I.F.R.

Vs.

Official Liquidator for Artek Organic Industries Ltd.

..Respondent.

Mr. Ashish Kamat with Punit Damodar and Ms. Nikita Vardhan i/by
Kanga & Co. for the Applicant.

Mr. Akar Rizvi i/by AKS Legal Consultant for the Original Applicant in CA
No.102/2017.)

CORAM : A.S.GADKARI, J.

DATE : 5th October, 2017

P.C.

1. This is an application for recalling of the order dated 30.6.2017
passed in Company Application No.102 of 2017.

The said application No.102 of 2017 was filed by the respondent-
original applicant for directions to the Official Liquidator to release part of
payment of Rs.4,84,89,916/- after retaining the amount of
Rs.95,73,792.76 as per the claim adjudicated by the Official Liquidator by

its intimation letter 09.5.2016.

2. The learned counsel for the applicant submitted that as a matter of fact in an appeal preferred by the present applicant bearing Appeal No.369 of 2014, the Division Bench of this Court by its order dated 30.10.2014 in Para-5 Sub Para (iv) has issued the following directions:-

“In the event of the amounts not being deposited as aforesaid, the appeals shall stand dismissed and the impugned order confirming the same in favour of respondent No.6 shall stand confirmed but subject to any orders that may be passed in the Writ Petition filed by the company challenging the order of the BIFR and AAIFR”.

That the said fact was not brought to the notice of this Court at the time of hearing of Company Application No.102 of 2017.

3. Perused the record and I find substance in the contention of the learned counsel for the applicant herein. It is to be noted here that at the time of hearing of Company Application No.102 of 2017 the respondent/original applicant did not annex the copy of the said order dated 30.10.2014 and also did not point out the said fact to this Court. According to me, the respondent/original applicant in Company Application No.102 of 2017 has suppressed the said fact from this Court to get a favourable order.

4. In view thereof, the order dated 30.6.2017 is hereby recalled and

the Company Application No.102 of 2017 is restored to file. The said application be placed before the regular Bench for hearing.

5. Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)