

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
***ORDINARY ORIGINAL CIVIL JURISDICTION***  
**COMPANY APPLICATION NO. 557 OF 2014**  
**IN**  
**COMPANY PETITION NO. 576 OF 2007**

**M/s.Marine Micro-Tech Inc. Limited** ..... Applicant

**IN THE MATTER BETWEEN**

**M/s.Shlesha Pharmachem Pvt. Ltd.**

**AND**

**The Official Liquidator,** ..... Respondents

**ALONGWITH**  
**COMPANY APPLICATION NO. 572 OF 2014**  
**IN**  
**COMPANY PETITION NO. 595 OF 2007**

**M/s.Marine Micro Tech Inc. Limited** ..... Applicant

**VERSUS**

**M/s.Vidhya Pharmachem Pvt. Ltd.** ..... Respondents

Mr.B.K.Ashok, i/b. Bekay Legal for the Applicant.

Mr.Mahendhar Aithe, Company Prosecutor for the Official Liquidator present.

No records and proceedings of Company Application No. 572 of 2014.

**CORAM : R.D. DHANUKA, J.**

**DATE : 3<sup>rd</sup> FEBRUARY, 2017**

**P.C.**

Company Application No. 572 of 2014 not on board. Taken on board.

2. Learned counsel for the applicant states that the respondent is served by substituted service pursuant to the order dated 16<sup>th</sup> November, 2016 passed by this court. He states that affidavit of service is already filed and tenders a copy thereof

for perusal of the court. Statement is accepted. None appeared for the respondents. None appeared for the original petitioner when the matter was called out. No affidavit in reply is filed to this company application.

3. By this application, the applicant seeks recall of the ex-parte order dated 7<sup>th</sup> August, 2014 passed by this court.

4. Learned counsel for the applicant invited my attention to the averments made in the affidavit in support of the company application and would submit that Mr. Shabbir Kurbanhusain Hakim was the managing director of the respondents. His wife expired in the year 2007 and thereafter he was staying at Gujarat for sometime as he was undergoing mental agony due to sudden death of his wife. In view of the mental distress and for other reasons recorded in the affidavit in support of the company application, he could not attend the proceedings. The company had engaged an advocate to represent the company.

5. It is submitted that the original petitioner has also filed several criminal complaints against the applicant (original respondent). No affidavit in reply is filed by the original petitioner though served.

6. After hearing the learned counsel appearing for the applicant and after perusing the averments made in the company application, I am of the view that the applicant has sufficiently explained the reasons for remaining absent when the matter was called out and has made out a case for recall of the ex-parte order passed by this court on 7<sup>th</sup> August, 2014.

7. Learned counsel for the applicant states that the applicant will not remain

absent when the matter is kept for final hearing and will not ask for unnecessary adjournment. Statement is accepted.

8. I, therefore, pass the following order :-

(a) Order dated 7<sup>th</sup> August, 2014 passed by this court in Company Petition Nos. 576 of 2007 and 595 of 2007 is recalled. Company Petition Nos. 576 of 2007 and 595 of 2007 are restored to file and shall be placed on board for hearing and final disposal on **23<sup>rd</sup> February, 2017**.

(b) The applicant is directed to convey this order to the original petitioner.

(c) In view of the recall of the order dated 7<sup>th</sup> August, 2014 passed by this court, the Official Liquidator is discharged. It is however made clear that the applicant shall not create any third party rights and/or encumber the assets of the applicant (original respondent) during the pendency of this petition. No order as to costs.

(d) If any expenses are incurred by the Official Liquidator for implementation of the said order dated 7<sup>th</sup> August, 2014, the same shall be paid by the applicant within one week from the date of communication of such expenses by the Official Liquidator.

9. Company applications are disposed of in the aforesaid terms. No order as to costs.

**(R.D.DHANUKA, J.)**