

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORIGINAL JURISDICTION)

Friday, the 08th day of September 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

COMP.APPLN.NO.590 OF 2017
IN
COMP.PETN.NO.198 OF 2004

In the matter of the Companies Act, 1956
And
In the matter of M/s.Kongurar Spinners Limited,
(In liquidation) Madras.

C.P.NO.198/2004:

B.I.F.R,
New Delhi.
Rep.By its Register.

... Petitioner

Vs.

1.The Chairman & MD,
M/s.Kongurar Spinners Ltd,
Pethappampatti - 642 205,
Udumalpet TK,

2.The Additional Secretary,
Dept of Industries,
Govt of Tamil Nadu,
Madras.

3.The Chairman & MD,
Canara Bank,
BIFR Account's Section,
Credit wing, 112, J.C.Road,
Bangalore.

4.The Chairman & MD,
Indian Bank, 31 Rajaji Salai,
Madras - 600 001.

5.The Chairman & MD,
ILC, C/o. Kongara Spinners LRd,
Pathappampatti-642 205.
Udumalpet -TK.

6.The Chairman & MD,
IDBI Tower,
Cuffe Parade,
Mumbai -400 005.

7.The Chairman &MD,
ICICI, ICIC Tower,
Bandra Kurla Complex,
Mumbai.

8.The President/Secretary,
Coimbatore Dist Tax,
Anna Trade Union,
102, Grag Town,
Coimbatore.

9.The President/Secretary,
National Tax workers union,
1848 Trichy Road,
Ramanathapuram,
Coimbatore - 641 045.

10.The President/Secretary,
Kovai Periya Mavatta,
Dravida Panchalai,
Thozhilalr Munncetra Sangam (LPF),
48, Tatabad Street No.3,
Coimbatore - 641 012.

11.The President/Secretary,
Kovai Periyar Mavatta D.P,
Thozhilalar Munncatra Sangam HIF,
48, Tataat Street No.3,
Coimbatore - 641 012.

12.Assistant Director,
ESIC Regional Office,
Rajandra Bhavan,
Rajandra Place,
New Delhi- 110 008.

13.Central Provident Fund,
Commissioner HUDCO, Vishala,
14, Bhikji oma place
New Delhi.

14.The Dy Manager (Marketing),
Bongaigaon Retinery &,
Petnchemicelp Lrd,
112-114 Suryakiram Build,
1st floor.19, Kasturba Gand Marg,

New Delhi-110 001.

15.The Chief Manager, ICICI Limited Charan Plaza,
1st floor, 16/9, Trichy Road,
Coimbatore - 641 015.

...Respondents

C.A.No.590/2017:

R.Subramanian,
S/o.Rasiappan,
No.2/60 B, New No.2/158,
Gudimangalam Post -642 201
Udumalpet Taluk.

... Applicant

Vs.

The Official Liquidator,
High Court, Madras,
as Liquidator of M/s.Kongurar Spinners Limited,
Pethampatti,
Udumalpet.

...Respondent

The Company Applicant in C.A.No.590 of 2017 praying this Court to set-aside the order dated 29.11.2012 passed by the official liquidator rejecting the claim No.146/198/2004 CES of the Applicant in C.P.No.198 of 2004 and consequently allow the Form 66 filed by the applicant.

The Company Application coming on this day before this Court for hearing the Court made the following order:-

"This application has been filed to set aside the order dated 29.11.2012 passed by the learned Official Liquidator rejecting the claim No.146/198/2004 CES of the applicant in C.P.No.198 of 2004 and consequently to allow Form 66 filed by the applicant.

2. In the affidavit filed in support of the application, it had been stated that the Company owes the applicant a sum of Rs.1,57,128/- (Rupees One lakh fifty

seven thousand one hundred and twenty eight only) which includes Salary, Bonus, Wages for illegal lay off, closure compensation and gratuity. It had been stated that the applicant had submitted Form-66. However, the learned Official Liquidator had rejected the claim to a sum of Rs. 1,13,210/- (Rupees One lakh thirteen thousand two hundred and ten only). Challenging the same, this application has been filed.

3. It had been further stated that he came to know about the rejection order dated 22.09.2012 and it was misplaced in the house and was traced only on 09.04.2014. He had engaged an Advocate and then learnt that no application was filed before the Court. It had been stated that he had missed the contact details of the earlier counsel and then he came to know that the application was not filed. It had been stated that the bundle was mixed with other case bundles during white washing in the office of the Advocate. It was traced only on 29.05.2017. Thereafter, he filed the application with the delay of 1623 days, which was condoned in Comp.A.No.484 of 2017.

4. In the report filed by the learned Official Liquidator, it had been stated that the learned Official Liquidator had examined the claim in Form 66, which had been admitted to a sum of Rs.43,918/- under Section 529(A) of the Companies Act, 1956. The notice of admissions/rejection in Forms 69 & 70 was also sent on

29.11.2012. With respect to the adjudication, the following details have been given:

Sl. No.	Particulars	Amount claimed Rs. P.	Amount Admitted Rs. P.	Amount Rejected Rs. P
1	Gratuity	72,953.00	20,480.00 (Basic + DA) 1479 x 15 --- 24 Years 26 (Date of joining to Date of Winding up)	52,473.00
2	Closure compensation	72,953.00	20,480.00 (Basic + DA) 1479 x 15 --- 24 Years 26 (Date of joining to Date of Winding up)	52,473.00
3	Leave Salary	6,012.00	1,479.00 (Basic + DA) (One month wages)	4,533.00
4	Notice Pay	5,210.00	1,479.00 (Basic + DA) (One month wages)	3,731.00
	TOTAL	1,57,128.00	43,918.00	1,13,210.00

Stating the above, the Official Liquidator had stated that the application should be dismissed.

5. A careful perusal of the report of the learned

Official Liquidator reveals that the claim under which heads, namely, Gratuity, Closure Compensation, Leave Salary, Notice pay have been considered and whatever is permissible had been granted. With respect to the gratuity, it had been given upto the date of winding up. Similarly, with respect to closure compensation also, it had been given upto the date of winding up of the Company. With respect to leave salary, one month wages and with respect to Notice Pay, one month salary have been paid. I find no infirmity in the impugned order of the Official Liquidator. This application is dismissed".

Sd/-C.V.K.J
08.09.2017

//CERTIFIED TO BE A TRUE COPY//

DATED THIS THE DAY OF 2017.

COURT OFFICER.

From 25th September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decree in this format.