

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.170 OF 2017
IN
COMPANY PETITION NO.505 OF 2006
IN
BIFR CASE NO.96 OF 1998**

T.K.R. Annamalai

....Applicant

Vs.

M/s. Coromandel Garments Ltd.
through Official Liquidator & Ors.

....Respondents

Ms. Sunanda Kumbhat a/w. Mr. Prabal Jain for applicant.

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

CORAM : K.R.SHRIRAM, J.

DATE : 9th JANUARY, 2018

P.C.:

1 This application is taken out to condone the delay of 20 days and to quash/set aside the adjudication made by Official Liquidator on the proof of debt submitted by applicant.

2 According to applicant, they had lodged affidavit of proof of debt claiming a sum of Rs.16,83,902.40/- comprising of Rs.3,25,328.90/- towards principal and the balance of Rs.13,58,573.50/- towards interest at 24% p.a. as per sales invoice. The principal amount has been admitted but the interest amount has been rejected.

3 According to Official Liquidator, unilateral declaration of interest cannot be termed as agreed terms of contract.

4 Ms. Kumbhat, counsel for applicant states that there are many case laws which suggest that if the invoice indicates rate of interest to be paid on outstanding amounts, the moment party accepts that invoice without any objection, it would mean that the other party has accepted to pay the interest mentioned in the invoice.

5 Mr. Aithe, Company Prosecutor for Official Liquidator states that applicant be permitted to place all these before Official Liquidator/ Company Prosecutor and they would consider the affidavit of proof of debt afresh.

6 In the circumstances, the order of adjudication dated 2nd January, 2017 is set aside. Official Liquidator to reconsider the application in accordance with law. It is made clear that this Court has not made any observation on the merit of applicant's claim. For completion of record, the reply of Official Liquidator be taken on record.

7 Application accordingly stands disposed.

(K.R. SHRIRAM, J.)