

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY APPLICATION (LODG.) NO. 162 OF 2018

IN

COMPANY PETITION NO. 94 OF 2015

Yashraaj Ethanoll Processing Private Limited
through Resolution Professional .. Applicant

In the matter between :

Praj Industries Limited .. Petitioner

Vs.

Official Liquidator of
Yashraaj Ethanoll Processing Private Limited .. Respondent

ALONG WITH

COMPANY APPLICATION (LODG.) NO. 128 OF 2018

IN

COMPANY PETITION NO. 280 OF 2015

Praj Industries Limited
formerly known as Pacecon Engineering
Projects Ltd. .. Applicant

In the matter between :

Praj Industries Limited .. Petitioner

Vs.

Yashraaj Ehtanoll Processing Private Limited .. Respondent

Mr.Navin Arora I/b Vrushali Maindad for applicant in CAL/162/2018.

**Shraddha
Kamlesh
Talekar**

Mr.Telesh Dande a/w. Mr.Bharat Gadhavi I/b Tejas Dande and Associates
for original petitioner/applicant in CAL/128/2018.

Mr.Mahendhar Aithe, company prosecutor for official liquidator present.

Digitally signed by
Shraddha Kamlesh
Talekar

Date: 2018.07.19
10:52:07 +0530

CORAM : K.R.SHRIRAM, J.

DATE : 16TH JULY 2018

P.C.

COMPANY APPLICATION (LODG.) NO. 162 OF 2018

1 This application is for recall of the order of 8th February 2018 winding up of the company-Yashraaj Ethanoll Processing Private Limited (the company). Application has been filed by one Jitendra Palande, Resolution Professional appointed by the National Company Law Tribunal, Mumbai (NCLT) on an application filed by one of the creditors under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC). The Resolution Professional was appointed by an order dated 18th July 2017 and corporate insolvency resolution process was to continue till April 2018. Therefore, there was a moratorium in force and the order dated 8th February 2018 could not have been passed. Therefore, the order dated 8th February has to be recalled.

2 Shri Arora appearing for applicant states that both the petitioners, on whose petitions, the company was ordered to be wound up on 8th February 2018, had already lodged their claims with applicant and therefore it was their duty to have brought this to the notice of the Court on 8th February 2018. Shri Arora also submitted that because of the negligence on the part of the petitioners, even the resolution professional has to incur cost to make this application which would be deducted from the amount available for the creditors.

3 In my view, Shri Arora appearing for applicant is justified in his

submissions. It has also to be noted that because of petitioners' lapse which petitioner has tried to explain, the judicial time of this Court has been lost not only on 8th February 2018 but also today while considering this application.

4 In the circumstances, the order dated 8th February 2018 is recalled.

5 In view of above, the following order is passed in both petitions :-

ORDER

(a) Petitioner to pay a sum of Rs.25,000/- each, i.e., in Company Petition No.94 of 2015 and in Company Petition No.280 of 2015 as costs to Maharashtra Legal Aid Services Authority and this amount to be paid within one week from today.

(b) Petitioner to pay a sum of Rs.10,000/- to applicant herein, viz., Jitendra Palande which applicant shall give credit to the Insolvency Resolution Process.

6 In view of above and since the Resolution Professional has already advertised in the newspaper about the orders passed by the NCLT and as petitioner has already lodged its claim with the Resolution Professional, Shri Dande seeks leave to withdraw the application as well as the petition.

7 The application and the petition dismissed as withdrawn with liberty to petitioner to prosecute its claim with the Resolution Professional as the Resolution Professional has already lodged with NCLT the resolution plan as approved by the committee of creditors.

Notwithstanding disposal, all office objections to be removed and the application to be numbered within two weeks from today.

**COMPANY APPLICATION (LODG.) NO. 128 OF 2018
IN
COMPANY PETITION NO. 280 OF 2015**

8 In view of the above order passed, this application does not survive and disposed accordingly.

COMPANY PETITION NO. 280 OF 2015

9 Since petitioner has lodged and pursuing its claim before the Resolution Professional appointed by the NCLT, nothing survives in this petition. Petition stands dismissed.

10 Since the public notice has already been given by the Resolution Professional, dismissal of the petition need not be advertised.

(K.R. SHRIRAM, J.)