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

**OFFICIAL LIQUIDATOR REPORT NO. 122 OF 2018**
**IN**
**COMPANY PETITION NO. 1180 OF 2002**
**WITH**
**COMPANY PETITION NO. 813 OF 2003**

**In the matter of Companies Act, I of 1956**
**And**
**In the matter of Madras Petrochem Ltd. (In Liqn)**

**Bharat Heavy Electricals Ltd. ... Petitioner**

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Mr. P Atchuta Ramaiah – Official Liquidator along with Mr. Mahendhar Aithe – Company Prosecutor present.
Mr. Shrikant Deshpande, purchaser.
Mr. Santosh Ajmera I/b Shikha S. Ajmera, purchaser.
Mr. Uday Rege, Savita Oil Technologies Ltd, purchaser.
Mr. Bhupendra Kumar Gupta, purchaser.

**CORAM : K.R. SHRIRAM, J.**
**DATE : 08th AUGUST, 2018**

**P.C.:**

. Four offers were received by the Liquidator. The bids were opened in the Court and each of the offerer was given a chance to improve upon their offer. One Shrikant Deshpande, Shikha S. Ajmera and Bhupendra Gupta tried to out bid each other and finally Shikha S. Ajmera gave a final offer of Rs.3,75,00,000/-.

2 This amount offered is more than 75% of the realization value indicated

and almost 85% of rate of Government Value after depreciation. Therefore, I am inclined to accept this offer. Moreover, this is the third attempt, the Liquidator is trying to sell. For every attempt to sell, costs are incurred for advertisement. Moreover, as observed by the Apex Court in ***Kayjay Industries (P) Ltd. V/s. Asnew Drums (P) Ltd & Ors., (1974) 2 SCC 213***, if court sales are too frequently adjourned with a view to obtaining a higher price, it may prove a self defeating exercise. It will be useful to reproduce paragraph 7 as under:

> *“7. Certain salient facts may be highlighted in this context. A court sale is a forced sale 'and, notwithstanding the competitive element of a public auction, the best price is not often forthcoming. The judge must make a certain margin for this factor. A valuer's report, good as a basis, is not as good as an actual offer and variations within limits between such an estimate, however careful, and real bids by seasoned businessmen before the auctioneer are quite on the cards. More so, when the subject-matter is a specialised industrial plant, which has been out of commission for a few years, as in this case, and buyers for cash are bound to be limited. The brooding fear of something out of the imported machinery going out of gear, the vague apprehensions of possible claims by,the Dena Bank which had a huge claim and was not a party, and the litigious sequel at the judgment- debtor's instance, have 'scare' value in inhibiting intending buyers from coming forward with the best offers. Businessmen make uncanny calculations before striking a bargain and that circumstance must enter the judicial verdict before deciding whether a better price could be had by a postponement, of the sale. Indeed, in the present case, the executing court had admittedly declined to affirm the highest bids made on May 16, 1969 June 5, 1969 and August 28, 1969, its anxiety to secure a better price being the main reason. If court sales are too frequently adjourned with a view to obtaining a still higher price it may prove a self-defeating exercise for industrialists will lose faith in the actual sale taking place and may not care to travel up to the place of auction being uncertain that the sale would at all go through. The judgment debtor's plea for postponement in the expectation of a higher price in the future may*

*strain the credibility of the court sale itself and may yield diminishing returns as was proved in this very case"*

3 In the circumstances, the offerer Shikha S. Ajmera and the amount of Rs.3,75,00,000/- is accepted subject to fulfilling with the terms and conditions of sale.

**(K.R. SHRIRAM, J.)**