

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 312 OF 2017
IN
COMPANY PETITION NO. 263 OF 2003**

Lavesh Finance Ltd.

....Applicant

IN THE MATTER BETWEEN :

Sunil V. Ratnaparkhi
Vs.

....Petitioner

Official Liquidator of
M/s. Satwick Electric
Controls Pvt. Ltd.

....Respondent

Mr.Prathamesh Kamat a/w. Mr. Shanay Shahi i/b Sapana Rachure for applicant.

Mr.Naushad Engineer for official liquidator.

Mr.Suresh Kumar for Provident Fund Department.

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

**CORAM : K.R.SHRIRAM, J.
DATE : 21ST JUNE, 2018**

P.C.:

1 The present Company Application takes an exception to the order of adjudication of claims of the workers made by the Official Liquidator.

2 The Official Liquidator has adjudicated the claims of the workers until the date of winding up i.e. upto 19th July, 2007. The said adjudication was done as the Official Liquidator was not aware of the closure of the company

on 19th May 2003.

3 The Applicant filed the present Company Application to challenge the adjudication on the basis that the company was in fact closed on 19th May 2003 and that therefore the adjudication of claims could only be upto that date. Accordingly the question that arose was whether the closure was legal or not since, if the company employed more than 100 workmen on an average in the 12 months preceding the closure, then the company needed the permission of the Appropriate Government to close down, and admittedly there was no permission and the closure would have been illegal. However, if there were less than 100 workmen, then in that event, the closure would have been valid.

4 Under the orders of this Hon'ble Court more particularly dated 4th June 2018, the Assistant Commissioner, Provident Fund along with the Advocate for the Provident Fund carried out a Joint exercise with the Counsel for Official Liquidator as well the Applicants. Based on record available with the Provident Fund officer, it was ascertained that only 57 workers, as per the records of PF office, were working one year prior to closure date, 19th May 2003. Therefore, the closure by the management of the Company (in Liquidation) was valid and legal.

5 In light of the above, the adjudication of the claims of the workers up to the date of winding up was based on incorrect basis. Therefore, the adjudication of the claims of the workers by the Official Liquidator is set-aside. The Official Liquidator shall re-adjudicate the claims of the workers up to the date of closure, i.e., upto 19th May 2003.

The Company Application is allowed and made absolute in terms of prayer clause (a).

6 This order is passed with the consent of all the parties, viz., applicant, official liquidator and the Provident Fund office. In fact Minutes of Order was tendered which is taken on record and marked 'X' for identification.

7 The company application accordingly disposed.

(K.R. SHRIRAM, J.)