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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CO.APP. 29/2018**

EMPLOYEE PROVIDENT FUND ORGANIZATION THROUGH RPFC FARIDABAD ..... Appellant

Through: Mr.Satpal Singh, Advocate.

versus

KAMLA SYNTEX LIMITED (IN LIQUIDATION) THROUGH OFFICIAL LIQUIDATOR ..... Respondent

Through: Ms.Ruchi Sindhwani, Sr. Standing Counsel with Ms.Megha Bharara, Advocate for OL.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

O R D E R

% **21.12.2018**

C.M.No.54322/2018 (Exemption)

1. Allowed, subject to all just exceptions and the application is disposed of.

C.M.No.54323/2018 (condonation of delay)

2. For the reasons stated in the application, the delay in filing the present appeal is condoned. The application is disposed of.

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3. This appeal is directed against the order dated 18th May, 2018 passed by the learned Company Judge, disposing of the application of the Appellant, directing that the entire amount of Rs.5,76,162/- as left with the Official Liquidator (OL), who was appointed in the winding up of the Respondent-company, should be paid to the Applicant.

4. The case of the Appellant was that the provident fund dues of the Respondent-Company were to the tune of Rs.1,41,81,446/- and that the said dues had to be given priority under Section 11(2) of the Employees Provident Fund and Misc. Provisions Act, 1952.

5. As noted by the learned Company Judge, the time-table for submission of claims began much earlier with the OL appointed as provisional liquidator on 1st October, 2002; subsequently, the winding up order was passed on 23rd September, 2004. The OL invited claims on 23rd January, 2004 and the last date for filing of claims was 23rd February, 2004. During this time, the Appellant did not file any claim. By 27th September, 2005, the claims of secured creditors and workmen were settled and sanctioned by the Court in total sum of Rs.3.86 crores that were available at that time. In 2006, payment of all the workmen, except those who remained untraceable, were made. Additional claims of the workmen were scrutinized from time to time. As on 2010, the balance left with the OL, as noted hereinbefore, was Rs.5,76,162.65 and the same had been directed to be transferred to the Public Account of India.

6. The Appellant appears to have been in deep slumber. Even the initial application was filed in 2011 with the dues quantified only up to 2005. The first application filed by the Appellant was not pressed by it. Another application was filed in 2015. The Applicant was held entitled only to the balance amount was left with the OL.

7. Clearly, the Appellant cannot insist on priority for its entire dues when it

did not file its claim in time.

8. The Court is unable to find any error in the impugned order of the learned Company Judge. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 21, 2018
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