

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
OFFICIAL LIQUIDATOR'S REPORT NO.2 OF 2019
WITH
COMPANY APPLICATION (L) NO.122 OF 2019
WITH
COMPANY APPLICATION (L) NO.123 OF 2019
IN
COMPANY PETITION NO.434 OF 2016**

In the matter of the Companies Act, I
of 1956

And

In the matter of Auram Machines
(India) Pvt. Ltd. (In Liqn.)

Liang Lih Machine Company Limited Petitioner

Mr. Aditya Pimple for Official Liquidator.

Mr. Suhas Sawant, Deputy Official Liquidator present.

Ms. Shruti Tulpule for applicant in CAL/122/2019 and CAL/123/2019.

Mr. Ankur Shah i/b. Mr. Hemant Sethi for petitioner.

Mr. Devavrath Madhavi, ex-director present.

Mr. Drupad Patil a/w. Mr. Aniket Mahi for ex-director – Mr. S.D. Deo.

Ms. Priya Rombade a/w. Mr. Aniket Worlikar i/b. Deven Dwarkadas and
Partners for ex-director – Mr. Devavrath Madhavi.

CORAM : K.R.SHRIRAM, J.

DATE : 9th AUGUST 2019

P.C.:

1 Mr. Pimple, counsel for Official Liquidator states that after the order dated 5th July 2019, the ex-directors have handed over two cars mentioned in the order. Mr. Patil, counsel for ex-director – Mr. S.D. Deo states that Mr. Deo was not in day to day running of the company (in liquidation) whereas it was Mr. Devavrath Madhavi who was in-charge.

2 Mr. Pimple states that Mr. Deo, ex-director by his letter dated 19th July 2019 has informed the Official Liquidator that there are two other vehicles, one Activa Honda Scooter and Hyundai Santro Car belong to the company which also the Official Liquidator should take possession of. As to why it was not stated on 5th July 2019, Mr. Patil agrees that it should have been but expressed his regret. Mr. Patil requests the Court to condone the lapse in view of Mr. Deo pointing out to the Official Liquidator the existence of two vehicles as well.

3 Mr. Madhavi again, though he was in-charge of day to day running of the company, has no explanation as to why it was not so disclosed on 5th July 2019. Ms. Rombade appearing for Mr. Madhavi states that the scooter is inside the registered office of the company (in liquidation) of which the Official Liquidator has taken possession of and the Hyundai Santro Car is with an ex-employee of the company (in liquidation) who resigned sometime in 2014, more than two years before the petition was presented. Ms. Rombade states that Mr. Madhavi has addressed communications to the ex-employee requesting him to return the vehicle and the last letter was sometime in 2018. Ms. Rombade ofcourse has no explanation as to why this thing was not brought to the notice of the Official Liquidator earlier and it is being informed only after the last order dated 5th July 2019 was passed. The Court was inclined to take a very serious view of this lapse but Ms. Rombade states that Mr. Madhavi has taken out a

company application (lodging) no.303 of 2019 for revival of the company. Ms. Rombade, on instructions from Mr. Madhavi, who is present in Court, states that the entire liability of the company will be settled by him and Mr. Madhavi is ready and willing to deposit a sum of Rs.20 lakhs today with the Official Liquidator to show his bonafides. Mr. Madhavi states that he will deposit Rs.5 lakhs with the Official Liquidator today and the balance amount of Rs.15 lakhs by 23rd August 2019.

4 Mr. Pimple, on instructions states that based on the notice issued by Official Liquidator, about 20 claims have been received from workmen and creditors. Ms. Rombade states that her instructions from Mr. Madhavi are that he will either settle all the claims or enter into consent terms with all those claimants so that the Court can consider the application for revival of the company.

5 Mr. Madhavi shall deliver the Activa Honda Scooter to the address in Mumbai, which has been indicated by the Official Liquidator in his letter dated 5th August 2019. Official Liquidator shall fix a date and time to open the registered office so that the scooter can be handed over to the transporter at the cost and responsibility of Mr. Madhavi and reach the scooter at the place nominated. Mr. Madhavi can claim this amount of transportation alongwith his affidavit of proof of debt from the company (in liquidation).

6 As regards the Hyundai Santro Car, Ms. Rombade states that she will provide the name and address of the ex-staff member who has the Hyundai Santro Car. Ms. Rombade also states that the car has not been transferred in the name of the ex-employee and it still remains in the name of the company (in liquidation). Official Liquidator to issue notice to the said ex-employee to deliver the car within four weeks of receiving the said communication at the address to be given by the Official Liquidator, failing which the said ex-employee shall remain present in Court on the date to be indicated by the Official Liquidator.

7 Ms. Rombade and Mr. Patil state that all requisition given in the letter dated 5th August 2019 from the Official Liquidator shall be complied with within two weeks from today. Statement accepted as undertaking to this Court.

8 Mr. Pimple states that the records indicate that there is a loan of Rs.70,000/- given to Mr. Madhavi from the company (in liquidation). Mr. Pimple states that there are no document to show as to how the loan was sanctioned and how the company could have given loan to its director. Mr. Madhavi to deposit the amount of Rs.70,000/- with the Official Liquidator within two weeks from today.

9 Mr. Pimple states that there is a loan of Rs.21,000/- given to an ex-employee of the company – Mr. Bhagwat, who is present in Court and

now employed with petitioner. Mr. Shah, counsel for petitioner, on instructions from Mr. Bhagwat denies that any loan has been given and states on the contrary his outstanding salaries are yet to be paid. Ms. Rombade appearing for Mr. Madhavi states that the proof of loan being given to Mr. Bhagwat will be handed over to Official Liquidator within two weeks from today. Mr. Shah, counsel for petitioner states that if any such proof is shown, certainly Mr. Bhagwat will deposit that amount of Rs.21,000/- with Official Liquidator but very vehemently reiterates that no such loan has been given to Mr. Bhagwat and if it is shown that such a loan has been given, the Court may impose such penalty on Mr. Bhagwat as it deems fit and Mr. Bhagwat will bring that money back with 21% p.a. interest.

10 Official Liquidator's Report alongwith other applications to be listed for directions on 30th August 2019.

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11 Mr. Pimple states that there is no dispute regarding the fact that the entire consideration has been paid by applicant to the company (in liquidation). Mr. Pimple also states that the consideration paid is in excess of the ready reckoner value. Mr. Pimple, on instructions from Mr. Sawant, Deputy Official Liquidator states that the Court may accept the bonafide of the purchasers since the consideration paid is more than the ready reckoner rate and allow the application.

12 In view of the above, application is allowed and accordingly disposed in terms of prayer clauses – (a), (b) and (c).

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13 Mr. Pimple states that even in this case the consideration mentioned is in excess of the ready reckoner rate but there is no proof of payment of the amount of Rs.2 lakhs. Mr. Pimple states that if applicant can prove that this amount of Rs.2 lakhs has also been paid, the Official Liquidator will have no objection to allow the reliefs sought in the company application. Ms. Tulpule states that proof of payment of this amount of Rs.2 lakhs will be handed over to the Official Liquidator/Mr. Pimple by 13th August 2019.

14 Subject to the said proof of payment of Rs.2 lakhs being shown and the Official Liquidator expressing satisfaction, the company application will stand allowed in terms of prayer clauses – (a), (b) and (c). If this proof of payment is not given and the Official Liquidator is not satisfied by 13th August 2019, this order will stand revoked.

(K.R. SHRIRAM, J.)