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

**COMPANY APPLICATION NO.269 OF 2019
IN
COMPANY PETITION NO. 507 OF 2003**

M/s. Tribal Cooperative Marketing ... Applicant
Development Federation of India Ltd.
In the matter between
MMTC Ltd. ... Petitioner
Vs.
The Official Liquidator (M/s. Hanuman ... Respondents
Vitamins Foods Ltd.) in Liquidation.

Mr. Ashok Singh, for the Applicant.
Mr. Arsh Mishra I/b. M.V. Kini for Ori. Petitioner.
Mr. Mahendhar Aithe, Company Prosecutor for O.L.

CORAM: R. I. CHAGLA, J.
DATE: 11TH SEPTEMBER, 2019

PC:-

1. The Company Application has been taken out for a direction against the Official Liquidator to condone the delay of 508 days in filing the claim by the Applicant and direct the Official Liquidator to accept the claim of the Applicant and comply with order dated 1st March, 2016 passed by this Court in Company Petition No.507 of 2002.
2. The learned Counsel for the Applicant has submitted that there were proceedings in execution which were going on in the Court of District Judge, Bastar, Jagdalpur, Chattisgarh. An

Application has been taken out on 9th January, 2019 for withdrawal of the execution proceedings as it had come to the knowledge of the Applicant that the property of the judgment debtor had been given in possession to the Official Liquidator after seizure of the property of the judgment debtor under orders of this Court. The Applicant had made an application to withdraw the execution application by bringing a claim of the amount due to the Applicant before the Official Liquidator. He has submitted that the Applicant had no knowledge prior to making this application as the Applicant was executing the attachment warrant in favour of the Applicant in the Court of District Judge, Bastar, Jagdalpur, Chhatisgarh. He has submitted that as soon as it came to the knowledge of the Applicant, this Application had been taken out for filing the claim before the Official Liquidator. The Applicant accordingly, seeks condonation of delay of 508 days in filing the claim.

3. Mr. Mahendhar Aithe, the Company Prosecutor for the Official Liquidator states that a public notice had been given inviting claims on 12th December, 2017 and that the Applicant would be deemed to have knowledge of the proceedings before the Official Liquidator. He has submitted that the Applicant has been negligent in pursuing its claim before the Official Liquidator

and that costs should be imposed upon the Applicant if the claim is to be entertained by the Official Liquidator.

4. The learned Counsel for the original Petitioner brings to the notice of this Court that the Company Petition had been admitted against the Respondents on 19th December, 2002. It was pursuant to the admission that the public notice of admission had been issued in the two leading newspapers and that the public would be deemed to have knowledge of admission of the Company Petition. In any event, the claims were to be filed on or before 12th December, 2017 and that there was considerably delay in making this application which is being preferred on 4th May, 2019. He has, therefore, opposed the grant of any relief in this Company Application.

5. Considering that, there has been considerable delay in filing the Company Application as the last date of filing the claim before the Official Liquidator was 12th December, 2017, it would be appropriate to impose costs on the Applicant for granting the relief prayed for in the Company Application. Further the Official Liquidator had issued Public notice inviting claims from general public and that the Applicant would be deemed to have knowledge of this notice. It also appears that the Company Petition was admitted as far back on 19th December, 2002 and became

absolute on 1st March, 2016 on which the date winding up order was passed. Therefore, in the interest of justice, the Application is allowed in terms of prayer clause (a) subject to the Applicant paying costs of Rs.10,000/- in favour of “Maharashtra State Legal Service Authority” which shall be paid within one week from the date of this Order.

6. The Company Application is made absolute in terms of prayer clause (a) and disposed of in the above terms.

(R I. CHAGLA, J.)