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

COMPANY APPLICATION NO.351 OF 2017

IN

COMPANY PETITION NO.433 OF 2013

Edelweiss Asset Reconstruction Company Ltd.)....Applicant

<u>IN THE MATTER BETWEEN</u> :

Larsen & Toubro Ltd.)....Petitioner

V/s.

Official Liquidator, High Court of Bombay)
(for Birla Surya Ltd.)) ....Respondent

<u>WITH</u>

<u>OFFICIAL LIQUIDATOR'S REPORT NO.4 OF 2019</u>

IN

COMPANY PETITION NO.412 OF 2003

AND

COMPANY PETITION NO.433 OF 2013

In the matter of the Companies Act, I of 1956

And

In the matter of Birla Surya Ltd.(In Liquidation)

Anil Manohar Kshirsagar and Ors.)....Petitioners

Mr.Prakash Shinde i/by MDP and Partners for applicant.
Ms.Prangana Barua i/by M.K.Ambalal and Co. for original petitioner.
Mr.Mayur Khandeparkar a/w Mr.Siddhesh S.Shetye i/by Rahul D.Oak for respondent no.6.
Ms.Sumi Soman i/by Suvarna Joshi for respondent no.7.
Mr.Shanay Shah for Official Liquidator.
[Mr.Mahendhar Aithe-Company Prosecutor present].

CORAM : K.R.SHRIRAM,J
DATE : 7.8.2019

P.C.:-

1. Mr.Shinde for applicant is unable to explain as to how directors or shareholders of the company in liquidation can be personally liable for the debts of the company. In any event, Liquidator is taking steps to liquidate the assets of the company.

2. Application dismissed.

OFFICIAL LIQUIDATOR'S REPORT NO.4 OF 2019

3. On 3.4.2019, following order came to be passed :-

> *"1. Perused the letter of MITCON, Consultancy and Engineering Services Limited, dated 1st April, 2019 received by the office of the OL, which reads as under :-*
>
> > *"Kindly appreciate that as a company we per se are not registered as valuers with IBBI and Wealth Tax Authorities. We shall complete the said assignment by engaging services of our empaneled valuer Er.Ajay Lele (Govt. registered Valuer) assisted by our in-house solar expert Er.Harshad Joshi within 15 working including site visit.*
> >
> > *Our professional fees for the same shall be Rs.6.50 Lakhs plus GST 18%.*
> >
> > *Please confirm and oblige."*
>
> *2. MITCON, Consultancy and Engineering Services Limited shall be assigned the job of valuation only after the parties claiming to be secured creditors, deposit their proportionate share with the OL towards valuation fees of*

MITCON, Consultancy and Engineering Services Limited.
3. Stand over to 10th April, 2019."

4. Mr.Shah for Official Liquidator submits that none of the secured creditors except Punjab National Bank have deposited their proportionate shares with the Liquidator towards the valuation fees. Mr.Shinde states on 22.4.2019 representative of Edelweiss attended the meeting and thereafter by Advocate's letter dated 23.5.2019 he submitted a summary of expenses and amount to be reimbursed. Mr.Shinde has no explanation as to why Edelweiss did not pay its contribution which according to him, it was payable to Official Liquidator. Therefore, the properties cannot be even valued due to non co-operation by the secured creditors.

5. Mr.Shinde states that according to Edelweiss, their share is 29.02% of Rs.6,50,00,000/- plus GST and that amount will be paid to Liquidator. This amount shall be paid on or before 13.8.2019.

6. Mr.Aithe- Company Prosecutor states before 13.8.2019 he will address communication to all other secured creditors who have to contribute and all other secured creditors will give their proportionate share within 7 days of receiving a letter from the Liquidator's office, failing which the Managing Director/Executive Director of all secured

creditors shall remain personally present in Court on the next date to explain why they have not paid.

Stand over to 28.8.2019.

(K.R.SHRIRAM,J)

KJ