IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

OFFICIAL LIQUIDATOR REPORT NO.06 OF 2013
IN
COMPANY PETITION NO. 07 OF 2001
(MAHARASHTRA EXPLOSIVES LIMITED (IN LIQUIDATION) ....VS.. NIL.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri Anjan De, Advocate for Official Liquidator.
Shri M.N.Phadke, Advocate for Bank of Maharashtra.
Shri N.A. Padhye, Advocate for Kotak Maindra Bank.
Shri M.M.Sudame a/w. Shri A.M.Sudame,Advs. For 34 workers.
Shri S.N.Deshpande, Advocate for Claimant.
Ms Mugdha Chandurkar, Advocate for DRT.
Shri S.V.Sohoni, Advocate for IDBI & IFCI Bank Ltd.
Shri S.Y.Deopujari, G.P. for Collector, Wardha and Sales Tax Dept.
Shri Shantanu Khedkar, Advocate for Central Excise & Customs.

CORAM : Z.A.HAQ, J.
DATED : JULY 12, 2019.

In the order dated 6th September 2013, this Court recorded that none of the parties have objection for disbursement of the dues of workers which are to the tune of Rs.2,03,30,312/-. It is further recorded in the order that there was no impediment in disbursement of 100% claim of the workers. Subsequently, the Official Liquidator objected to the disbursement of the amount on the ground that on further scrutiny it revealed that some of the workers will not fall in the category of "employees" as contemplated by Section 529-A of the Companies Act 1956. In view of the objection raised on behalf of the Official Liquidator, this Court passed order on 20th March 2015 appointing Shri M.R. Pillai, Advocate as Commissioner to ascertain whether all the 48 workers whose claims were to be satisfied were "employees" as per Section 529-A of the Companies Act, 1956. Accordingly, the

Commissioner had undertaken exercise and submitted his report dated 27th April 2015 concluding that except Shri Sachhidanand Singh and Shri Ganpat Tadvekar, other workers fall in the category of 'employees' within the meaning of Section 529-A of the Companies Act, 1956.

2. Though the learned Advocate appearing for the Official Liquidator has raised certain objections to the findings recorded by the Court Commissioner that except Shri Sachhidanand Singh and Shri Ganpat Tadvekar, other workers will fall in the category of 'employees' within the meaning of Section 529-A of the Companies Act 1956, the Official Liquidator has not been able to point out any illegality or perversity in the conclusions of the learned Commissioner. I find that the learned Commissioner has taken into consideration all the relevant factors i.e. salary drawn by each employee and the nature of duties assigned to each employee. Hence, the objection raised on behalf of the Official Liquidator on this point is overruled and it is held that except Shri Sachhidanand Singh and Shri Ganpat Tadvekar other 36 employees in whose respect report dated 27th April 2015 is submitted are entitled for disbursement.

3. The learned Commissioner has submitted another report dated 16th February 2018 recording that Shri Vijay Laxman Buldeo also falls in the category of 'employee' as per Section 529-A of the Companies Act, 1956. Accepting the Commissioner's report, it is held that Shri Vijay Laxman Buldeo is also entitled for the amount.

4. It is not in dispute that the Official Liquidator has otherwise determined the amount receivable by each

employee. It is not in dispute that each of these 37 employees is entitled for the amount shown in Exh.No.7 annexed to the synopsis dated 12th December 2017 filed by the Advocate representing the employees.

5. The Advocate for the Official Liquidator and the Advocates for the employees agree that the amount shown in Exh.7 is correct and as calculated by the Official Liquidator, and amount of Rs.41,33,000/-, to be disbursed to the 37 employees.

Hence, the Official Liquidator is directed to disburse the amount to each of the employee as ascertained by him within two months from today.

6. The Official Liquidator's Report No.6 of 2013 is **disposed** accordingly. No costs.

JUDGE

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