

Comp.A.No.94 of 2019

in

C.P.No.60 of 1999

M.SUNDAR, J.

Read this in conjunction with and in continuation of earlier order made by this Company Court being order dated 06.04.2018 in C.A.Nos.324 and 284 of 2018 being applications taken out by the applicant in the instant application. Prayer in the said applications read as follows:

'Prayer in C.A.No.324 of 2018

The Company Applicant praying this Court to condone the delay of 5641 days in filing necessary application to set aside the ex parte order of winding up dated 14.09.2001 passed in C.P.No.60 of 1999 appointing the Official Liquidator, High Court, Madras as the Liquidator of M/s.Sree Veerakumar Spinning Mills Pvt. Limited.'

'Prayer in C.A.No.284 of 2018

The Company Applicant praying this Court to defer the sale to be conducted on 06.04.2018 in terms of the order of sale dated 26.02.2018 passed in C.A.No.145 of 2018 in C.P.No.60 of 1999 in respect of the movables, Plant and Machineries, Buildings and Civil Structures of M/s.Sri Veerakumar Spinning Mills Pvt. Limited (In Liquidation) situated at No.SF No.678/1A Coimbatore Main Road, Vellakoil, Kangayam Taluk, Tirupur District.'

2. Most relevant portion of the order dated 06.04.2018 is contained in paragraph 7 and the relevant portion contained in Paragraph 7 reads as follows:

'In the meanwhile, the applicant in both the applications is directed to pay a sum of Rs.24,13,540/- being expenses incurred by the Official Liquidator within the period of eight weeks from the date of receipt of a copy of this order. '

3.Mr.J.Nithyanandan, learned counsel for applicant in the instant application, who is before this Court, submits that aforesaid order dated 06.04.2018 was received on 11.04.2018 and therefore, eight weeks time frame elapsed on 06.06.2018.

4.Adverting to the affidavit filed in support of the instant application, particularly paragraph 10, learned counsel submitted that the delay in paying the aforesaid sum of little over Rs.24.13 lakhs was neither wanton nor willful but only owing to the reasons set out therein. This Court deems it appropriate to extract paragraph 10, which reads as follows:

'10. I state that though I approached this Hon'ble Court with clean hands and bonofide intentions to take the company out of the liquidation proceedings, I could not mobilize the funds in time to comply the order passed by this Hon'ble Court in time. The main reasons for the delay is the investors who assured to bail out me from the present situation did not come in time and due to the delay in non compliance of the Court order made me sick frequently. I state that with much great difficulty I have arranged the funds now to comply the court order and approached the Official Liquidator office explained my situation and requested to know the approximate expenses incurred till March 2019. The Official Liquidator Office orally informed that the amount nearly

comes to Rs.29,90,000/- and I have to deposit that amount. I state that I sincerely made arrangements for the said amount and submitted a Demand Draft for Rs.29,90,000/- bearing No.004265 dated 14.03.2019 drawn in IDBI bank, favouring the Official Liquidator on 15.03.2019 and requested to accept the same.'

5. Deputy Official Liquidator representing the 'Official Liquidator attached to this Court' ('said OL' for brevity) submitted that it would be desirable to direct the applicant to pay further charges, if any, that are incurred by said OL i.e., upto the date of orders in applications for stay and for setting aside ex parte order dated 14.09.2001 in C.P.No.60 of 1999 being applications filed vide Diary Nos.14121 and 14126 dated 12.03.2018 or upto the date of sale of assets depending on the outcome of the said applications.

6. Responding to this, on instructions, learned counsel for applicant, undertook to have the aforesaid applications vide Diary Nos. 14121 and 14126 dated 12.03.2018 processed, numbered and brought on Board as expeditiously as possible and in any event latest by the end of first week of June of 2019 i.e., 07.06.2019 to be precise. It is also made clear that if the applications are not processed, numbered and brought on Board by 07.06.2019, notwithstanding the payment, the Official Liquidator will be at liberty to proceed with the liquidation proceedings.

M.SUNDAR.J.,

gpa

Application ordered on above terms.

05.04.2019

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Note: Issue order copy on 12.04.2019



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