THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No.104 of 2008

ORDER:

This company petition is filed seeking winding up of the respondent company on the ground that it had failed to pay the interest of Rs.23,12,059/- (Rupees twenty three lakhs twelve thousand fifty nine only) calculated up to 13.10.2007 on account of the supplies made during the period between October 2000 and March 2001.

Heard learned counsel for the petitioner and learned counsel for the respondent.

As can be seen from the averments made in the company petition, the petitioner claims to have made supply of goods during the period October 2000 and March 2001 worth Rs.21,45,229/- and had raised the bills from time to time. It is admitted in para 8(i) of the company petition itself that the respondent company had liquidated the entire principal amount in three or four installments, last of which was made on 13.10.2007. However, the respondent company had failed to pay the interest accrued on the delayed payments.

The points for consideration in the present case are whether there is any provision requiring payment of interest on the delayed payments and whether the respondent company is liable to pay such interest.

There is no document filed before this Court by the petitioner to show that the respondent company had agreed to pay the interest.

However, the petitioner company placed the copies of invoices, alleged to have been raised from time to time, wherein it has been written in ink that interest at 24% per annum is liable to be paid.

The respondent company has filed counter-affidavit denying the allegation made by the petitioner with respect to the payment of interest. After recovery of the principal amount, without there being any agreement for payment of interest, the petitioner cannot claim the interest. It is the specific assertion of the respondent company that the original invoices do not contain any such endorsement.

In the absence of there being any specific agreement, mere endorsement on the invoices does not create any liability to pay the interest. If there is a clear dispute with respect to the payment of interest, the petitioner ought to have initiated appropriate civil proceedings for recovery thereof. It may be noted that filing of company petition does not save the limitation. Though the petitioner filed this company petition only to recover the accrued interest for the delay in payments, no reliable material is filed before this Court to come to a conclusion that the interest is liable to be paid by the respondent company. In the copies of the invoices filed by the petitioner along with the company petition, it has been inscribed in ink as 'interest @ 24% p.a. from …(different dates)'. It may also be noted that the respondent company along with the additional affidavit filed the originals of invoices issued by the petitioner company, which do not contain the inscription in ink with respect to the payment of interest at 24% per annum. In view of the above contradictions, this

Court finds no merits in the company petition and the same is liable to be dismissed.

Accordingly, the company petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM , J

13th December 2019

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HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD