

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No.264 of 2015

ORDER:

This company petition is filed invoking Section 433(e), 434(1)(a) and 439(1)(b) of the Companies Act, 1956, read with Rule 95 of the Companies (Court) Rules, 1959, alleging that the respondent-Company is due and payable to the petitioner a sum of Rs.59,11,517/-.

In the petition, it has been categorically stated that the respondents have admitted a sum of Rs.50,48,063/-, as due and payable to the petitioner. However, after filing of counter affidavit, this Court vide order dated 27.07.2016 finally arrived at the undisputed amount due and payable by the respondent as Rs.50,48,063/-.

Now, the learned counsel for respondent filed a Memo dated 24.07.2019, by duly serving a copy on the petitioner. As per the Memo, and the Ledger Detail Report annexed to the Memo, for the period 01.04.2014 to 31.03.2015, a sum of Rs.64,05,237/- was due and payable to the petitioner, and on account of various payments made up to 23.05.2015, finally a sum of Rs.50,48,063/- became due and payable, and the said amount has been paid during the period 27.01.2016 to 16.08.2017 as per the Ledger Detail Report.

There is no dispute with respect to the receipt of amounts as stated by the respondent, *vide* the aforestated Memo. However, the learned counsel for the petitioner contends that as per their ledger account, a sum of Rs.8,00,000/- and odd is still due and payable to them by the respondent.

Having regard to the respective submissions, and on perusing the record, the contention of the learned counsel for the petitioner that still an amount of Rs.8,00,000/- and odd is due and payable by the respondent-

company, is liable to be rejected, as, this Court *vide* order dated 27.07.2016 had recorded a finding that the admitted amount due and payable is only Rs.50,48,063/-; which amount indisputably stands paid in all respects.

In that view of the matter, the cause in the contempt petition does not survive and the petition is liable to be dismissed.

Insofar as the contention of the petitioner that an amount of Rs.8,00,000/- is still due and payable, as it is well settled that a Company Petition is not a suit for recovery of amount, this Court is not required to consider the same. However, it would be open for the petitioner to work out the remedies available under law, subject to their eligibility and right.

Accordingly, the company petition is dismissed. No costs. Miscellaneous petitions, if any pending, shall also stand dismissed.

JUSTICE CHALLA KODANDA RAM

26th July, 2019
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