THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAVA RAO

O.S.A. NO.11 OF 2018

ORDER: (per SK,J)

This appeal under Clause 15 of the Letters Patent Appeal read with Section 483 of the Companies Act, 1956, arises out of the winding up order dated 14.08.2018 passed in C.P.No.157 of 2015 against M/s.TM Tyres Limited, Secunderabad.

2. When the appeal was taken up for hearing on 05.11.2018, the Court suggested that the appellant company should pay the amount as indicated in the notice issued under Sections 433 & 434 of the Companies Act, 1956, together with simple interest @ 9% per annum so as to settle the issue. Thereafter, on 12.11.2018, the Court took note of the fact that the appellant company undertook to pay the decretal amount of Rs.72,57,721/- under six equal monthly instalments starting from December 2018 along with interest thereon @ 9% per annum. The winding up order was accordingly suspended until 30.06.2019 permitting the appellant to make the payment of the entire amount, as indicated in the memo, in the meanwhile.

3. The case was again taken up for hearing on 15.03.2019 and this Court took note of the fact that the appellant company had furnished six cheques, each for Rs.6,00,000/-, aggregating to Rs.36,00,000/- in part payment of the decretal amount of Rs.72,57,721/- and directed the appellant company to pay the entire decretal amount along with interest @ 9% per annum on or before 11.06.2019.

4. When this case was taken up for hearing on 04.07.2019, we were informed that there was a dispute only as to the interest component

payable. The matter was thereafter adjourned from time to time to enable the parties to settle the matter amicably.

5. We are now informed by Sri Sharad Sanghi, learned counsel for the appellant company, and Sri N.Vijay, learned counsel for the respondent company, that the principal amount of Rs.72,57,721/- was paid before 11.06.2019, as directed, but as there was a dispute only with regard to the interest component payable thereon.

6. The parties are present before this Court.

7. In the light of the interchange between the learned counsel in open Court, based on their clients' instructions, the ultimate consensus that emerged was that interest amounting to Rs.22,00,000/- should be paid by the appellant company to the respondent company in full and final settlement of the interest liability. Demand Draft bearing No.144931 dated 03.07.2019 for a sum of Rs.3,21,078/- drawn up in the name of Duncan Engineering Ltd., the present name of the respondent company is produced in part payment of this interest and handed over to Sri N.Vijay, learned counsel, in open Court. Sri Sharad Sanghi, learned counsel, states that his client, the appellant company, undertakes to clear the balance amount payable towards the interest liability by or before 5.00 p.m. on 16.09.2019.

8. The appeal is accordingly allowed, setting aside the winding up order dated 14.08.2018 passed in C.P.No.157 of 2015. In the event the appellant company fails to clear the interest liability within the time stipulated supra, this order shall stand recalled and the winding up order shall revive with all necessary consequences.

9. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

__________________
SANJAY KUMAR,J

_________________
P.KESHAVA RAO,J

Date:05.08.2019
KL