Company Application No.76 of 2019
in
CP.No.123 of 2016

M.SUNDAR, J

'Arvind Remedies Limited' [hereinafter 'said Company' for the sake of convenience and clarity] went into liquidation in the aforementioned Company Petition i.e., 'CP.No.123 of 2016' [hereinafter 'main CP' for the sake of brevity], which was at the instance of a petitioning creditor in the name and style Alliance Container.

2. Captioned application has been taken out by a Company, which goes by the name Dalas Biotech Limited and Mr.T.Ravichandran, learned counsel on record for applicant-Company is before me in this web hearing on a video conferencing platform.

3. Learned counsel, adverting to paragraph 4 of the affidavit filed in support of captioned application, submits that the applicant-Company has supplied pharma products *inter-alia* Amoxcillin vide four invoices between 20.05.2014 and 21.08.2014 to said Company. Learned counsel submits that tabulation in this regard is in paragraph 4 of affidavit filed in support of

captioned application and the same reads as follows:

S.No.	***Invoice No.***	***Date***	***Invoice Value in Rs.***
1	104	20.05.2014	2979787.00
2	231	14.07.2014	6790477.00
3	345	21.08.2014	4526984.00
4	346	21.08.2014	4355074.00
		Total	**18652322.00**

4. Thereafter, in 2016, main CP was presented in this Company Court by aforementioned petitioning creditor. This Court is informed that an order of winding up was made by this Court on 17.10.2016, thereafter, 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of brevity] took possession of assets and effects of said Company on 15.03.2017. This Court is further informed that at this juncture, a secured creditor namely 'Punjab National Bank' ['PNB' for brevity], moved this Court by way of an application i.e., C.A.No.264 of 2017 and vide an order dated 06.04.2017, this Court directed OL to hand over possession of assets of said Company to PNB. There is no disputation that this was done by OL on 17.04.2017.

5. To be noted, besides aforementioned counsel for applicant-company, on behalf of OL, Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' [hereinafter 'Deputy OL' for the sake of brevity] and on behalf of PNB, Mr.M.L.Ganesh, learned counsel are before me in this web hearing on a video conferencing platform.

6. Learned Deputy OL submits that on taking possession of assets of said Company on 15.03.2017, it was kept under lock and key, not even a shred of paper or effects were removed from said Company or its other immovable assets and the possession taken on 15.03.2017 was handed over to PNB on 17.04.2017, in same (as is where is) condition pursuant to orders of this Court dated 06.04.2017 in aforementioned C.A.No.264 of 2017.

7. Now the scene shifts to PNB.

8. Learned counsel for PNB, adverting to counter affidavit dated 13.02.2020, submits that no C-forms relating to aforementioned four invoices of the applicant-company are available in the records of said Company with them.

9. This straight away takes us to the prayer of applicant in the instant captioned application. The prayer is to direct (originally OL) and now PNB to issue C-forms pertaining to the aforementioned four invoices. In this

regard, this Court deems it appropriate to extract paragraphs 4 to 6 of counter affidavit of PNB and the same read as follows:

> *'4. I further state that pursuant to the direction issued by this Hon'ble Court dated 06.04.2017 on our application, the first respondent/OL had handed over physical possession of the secured property on 17.09.2017 after receiving the security charge amount of Rs.2,59,383/- by way of demand draft dated 07.04.2017.*
>
> *5. I further state that the respondent bank had taken inventory of the company in liquidation on 07.04.2018 in the presence of officials of the consortium member bank and CBI.*
>
> *6. I further state that on perusal of the list of inventories, it is evident that the purported C-forms relating to the invoices as mentioned in Para No.2 of the above application not available.'*

10. Paragraph 6 of counter affidavit of PNB is of utmost relevance.

11. As far as the payment for aforementioned four invoices are concerned, learned counsel for applicant submits that he has lodged claims with OL and he has to wait for his turn. If PNB realises more than what is due to them, it will obviously be a constructive trustee. It may not be

necessary to dilate any further of these aspects of the matter considering the limited scope of instant application.

12. Instant application is disposed of recording the stated position of PNB articulated in paragraph 6 of counter affidavit (extracted and reproduced supra). There shall be no order as to costs.

18.09.2020

kmi

M.SUNDAR. J

kmi

Company Application No.76 of 2019
in CP.No.123 of 2016

18.09.2020