

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.31 OF 2020
IN
COMPANY PETITION NO.505 OF 2006**

T. K. R. Exports

....Applicant

V/s.

M/s Coromandel Garments Ltd. & Ors.

....Respondents

**WITH
COMPANY APPLICATION NO.38 OF 2020
WITH
COMPANY APPLICATION NO.47 OF 2020
WITH
COMPANY APPLICATION NO.39 OF 2020
WITH
COMPANY APPLICATION NO.25 OF 2020
WITH
COMPANY APPLICATION NO.41 OF 2020
WITH
COMPANY APPLICATION NO.27 OF 2020
WITH
COMPANY APPLICATION NO.37 OF 2020
WITH
COMPANY APPLICATION NO.26 OF 2020
WITH
COMPANY APPLICATION NO.40 OF 2020
WITH
COMPANY APPLICATION NO.32 OF 2020
WITH
COMPANY APPLICATION NO.76 OF 2020
WITH
OFFICIAL LIQUIDATOR REPORT NO.106 OF 2020**

Mr. Kunal Kumbhat i/b Sunanda Kumbhat for Applicant in CA/31/2020, CA/47/2020, CA/25/2020, CA/27/2020, CA/26/2020, CA/32/2020;
Mr. Sajid Shamim a/w Mr. Murtaza Slatewala i/b S. Shamim and Co. for Applicant in CA/38/2020, CA/39/2020, CA/41/2020, CA/37/2020, CA/40/2020 and CA/76/2020;
Mr. Aditya Pimple, Advocate for Official Liquidator;
Mr. Mahendhar Aithe, Company Prosecutor present.

CORAM : K.R.SHRIRAM, J.
DATED : 16th FEBRUARY 2021

P.C. :

1 These applications have been filed by applicant, challenging the adjudication order of the Official Liquidator to the extent of rejection of interest claimed by applicant. The Official Liquidator has filed an affidavit in reply dated 22nd January 2021. The Official Liquidator states that when they reviewed the papers to file this reply, it appeared that even the principal amount, which has been granted, was barred by limitation. Mr. Pimple states that, therefore, the court will set aside the entire adjudication order and send it back to the Official Liquidator for fresh adjudication with a direction to the Official Liquidator to re-consider the affidavit of proof of debt for the principal amount as well as interest and dispose the same in accordance with law.

2 In my view, it is a fair suggestion. Mr. Kumbhat states that the challenge to the adjudication order was only to the extent of rejection of interest and not entire adjudication order and the court, therefore, should only set aside the adjudication order to the extent of rejection of interest and not the grant of principal amount.

3 One thing has to be kept in mind is that the money available with the Official Liquidator is to pay the debts of all creditors. If, the Official Liquidator reviews the file and finds that the adjudication order has been passed erroneously, nothing prevents the Official Liquidator to file an Official Liquidator's report for leave to recall that order. In this case also,

the Official Liquidator report could have been filed but that would only amount to further delaying the process. What would have been stated in the Official Liquidator's report is already stated in the affidavit in reply. The adjudication order dated 22nd February 2019 is set aside with a direction to the Official Liquidator to reconsider the affidavit of proof of debt filed by applicant including whether interest is payable, in accordance with law. The Official Liquidator shall give a personal hearing to applicant before passing the fresh order of adjudication. If, applicant wishes to file any further documents, applicant may do so within two weeks from today.

4 I will hasten to clarify that, I have not made any observations on the merits of the claim lodged by applicant either for the principal amount or the interest or on the order of the Official Liquidator, which is impugned in this application. Company Application No.31 of 2020, Company Application No.47 of 2020, Company Application No.25 of 2020, Company Application No.27 of 2020, Company Application No.26 of 2020 and Company Application No.32 of 2020 accordingly stand disposed.

5 In view of the above, Company Application No.38 of 2020, Company Application No.39 of 2020, Company Application No.41 of 2020, Company Application No.37 of 2020, Company Application No.40 of 2020 and Company Application No.76 of 2020, do not survive and are also disposed accordingly.

(K.R. SHRIRAM, J.)