

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

COMPANY APPLICATION (CAO) NO. 332 OF 2013

(A.G. Pimparkhede & Co. ..vs.. Official Liquidator, HC, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.V. Samarth, Counsel for the applicant,
Mr. K.S. Reddy-Official Liquidator.

CORAM : ROHIT B. DEO, J.

DATED : 01-02-2021

This application is moved by A.G. Pimparkhede & Company which is a firm of Chartered Accountant on the Panel of Official Liquidator, High Court, Nagpur.

2. Prayer clause (a) and (b) of the application read thus :

“(a) direct the Official Liquidator to make the payment of Rs.5,000/- for each effective date, for the purpose of recording evidence by the applicant and continue to do so in future also, in the interest of justice, FOR WHICH ACT OF KINDNESS, THE APPLICANT WILL REMAIN INDEBTED, AS IF IN DUTYBOUND,

(b) direct the Official Liquidator to make payment of professional fees in future from funds of the company or from a Common Pool Fund when the funds are not available in the company FOR WHICH ACT OF KINDNESS, THE APPLICANT WILL REMAIN INDEBTED, AS IF IN DUTYBOUND.”

3. The justification for the payment of professional charges at an enhanced or revised rate is spelt out in

paragraphs 2 and 3 of the application, which read thus :

“2. That the applicant has carried out various investigations and submitted its report under sections 542 and 543 of Indian Companies Act. That on the basis of the said reports, the matters are being instituted and evidence is being recorded by the Commissioner appointed by this Hon’ble Court. It is most humbly submitted that it is an obligation on the part of the applicant to appear on each and every date of evidence. That the applicant being professional is required to be paid professional fees as directed/fixed by this Hon’ble Court from time to time. In one of the matters, in the year 2000, this Hon’ble Court has fixed the amount of Rs.1,500/- for each date, when the evidence is fixed. Copy of the said Order in OLR No. 31/2000, dated 18-8-2000 passed by this Hon’ble Court in the case of Messrs. Vidarbha Glass Works is annexed herewith for kind reference of this Hon’ble Court and marked as Exhibit “A”.

3. It is most humbly submitted that whenever the applicant is required to remain present for adducing the evidence, the applicant has charged Rs.5,000/- for each effective date and raised the bill accordingly including therein also service tax. It may kindly be noted that taking into consideration the standing of the applicant in the profession since the last 28 years, professional fees charged by the applicant in the year 2013 is most reasonable, since times have changed. That the applicant has raised the bills according to the guidelines issued by the Institute of Chartered Accountants of India. Copy of the said guidelines issued by the Institute of Chartered Accountants of India is annexed herewith for kind reference of this Hon’ble Court and marked as Exhibit “B”.

4. I am of the considered view that a professional

must be duly compensated if he is expected to attend the proceedings and adduce evidence in support of the misfeasance report.

5. The learned Official Liquidator would submit that the amount of Rs.5,000/- per effective appearance is on the higher side and in response, the applicant who is personally present, fairly scales down the prayer to Rs.4,000/- per effective appearance.

6. Be it noted that it was vide order dated 18-8-2000 that this Court (D.D. Sinha, J.) fixed Rs.1,500/- per effective appearance as the charge. Obviously with the passage of time, the said amount has become illusory.

7. The applicant be paid Rs.4,000/- per effective appearance, if necessary from the common pool.

8. It is not in dispute that Rs.72,375/- is due and payable to the applicant for recording of evidence and ancillary matters. This payment of Rs.72,375/- be made to the applicant from the common pool within two weeks.

JUDGE

adgokar