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IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 02.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.NO.1574 OF 2013
AND
M.P.NO.1 OF 2013

The Recovery Officer,
Office of the Regional PF Commissioner,
Bhavishyanidhi Bhavan,
Employees' Provident Fund Organisation,
Regional Office,
Dr.Balasundaram Road,
Coimbatore - 641 018.

... Appellant

versus

1. The Official Liquidator,
Corporate Bhawan, 2nd Floor,
Ministry of Company Affairs,
No.29, Rajaji Salai,
Chennai - 600 104.
2. Board for Industrial and Finance Reconstruction,
Jawahar Vyapar Bhawan,
1, Tolstoy Marg, Janapath,
New Delhi - 110 001.
3. The Chief Manager,
Punjab National Bank,
N.S.C.Bose Road,
15 & 16, Rattan Bazaar,
Chennai - 600 003.
4. M/s.Tan India Ltd.,
No.21, Gandhipuram Main Road,
Kumarapalayam - 638 183.

... Respondents

Prayer:

Appeal filed under Clause 15 of the Letters Patent against the order dated 28.02.2013 passed by the learned Single Judge in W.P.No.26110 of 2012.



W.P.No.26110 of 2012:-

This Writ Petition filed under article 226 of the Constitution of India, praying to issue Writ of mandamus to directing the 1st Respondent to release a sum of Rs.62,32,349/- out of the accounts/deposits held by the 1st Respondent before the Third Respondent.

For Appellant : Ms.R.Meenakshi

For Respondents: Mr.Kiran Manokaran for
Official Liquidator for R1

R2 to 4 no appearance

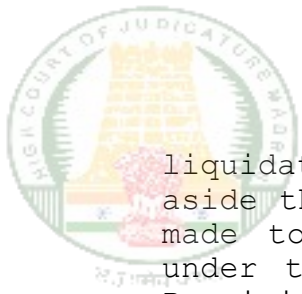
JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

This writ appeal has been brought by the Recovery Officer, Office of the Regional PF Commissioner, challenging the impugned order dated 28.02.2013 passed in W.P. No.26110 of 2012, wherein the learned Single Judge, holding that the prayer seeking for a direction to the Official Liquidator to pay legal dues from and out of the accounts held by him cannot be granted, has dismissed the above writ petition.

2.Ms.Meenakshi, learned counsel appearing for the appellant, while briefly stating the justification to claim the money from the first respondent, with a leave of the Court, learned counsel for the Official Liquidator, first respondent herein, drawing our notice to a Status Report of the Official Liquidator dated 10.08.2021, submitted that the Official Liquidator has received two claims from EPFO. namely, EPFO., Coimbatore and EPFO., Salem and based on the documentary evidence submitted by the EPFO., Coimbatore, the Official Liquidator has adjudicated the claim and allowed a sum of Rs.40,82,566/- and rejected a sum of Rs.37,18,618/-, out of the total claimed amount of Rs.78,01,184/-.

3.A perusal of the Status Report dated 10.08.2021 filed by the Official Liquidator shows that this Court, by order dated 25.06.2001 made in C.P. No.243 of 1997, has ordered the Company, viz., M/s.Tan India Limited to be wound up and the Official Liquidator to take over the company. Since the company in liquidation is having its assets in four divisions, i.e. land and building and plant and machinery, situated at different places in Tamil Nadu, subsequent to the winding up order, an application was filed by the Ex-Directors of the Company in



liquidation in C.A. No.927 of 2001 seeking direction to set aside the order of winding up on the ground that a reference was made to the Board for Industrial and Financial Reconstruction under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 and pursuant to the provisions of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985, this Court granted an order of stay of further proceedings in the winding up action till the disposal of the reference pending before BIFR. The above Status report further reveals that while passing the order, this Court also made it clear that the order of winding up was not liable to be set aside and that the vesting of the companies property and the consequences under Section 456 (1) and (2) of the Companies Act, 1956 would continue to be operative and that the reference was dismissed by BIFR on 05.08.2002 and on appeal, the Appellate Authority for Industrial and Financial Reconstruction passed an order on 07.11.2005 remitting the matter back to the BIFR. It further states that when the Official Liquidator has taken possession of four divisions, this Court, by order dated 07.02.2006 made in C.A. Nos.1185 of 2003 and 105 and 106 of 2006, has appointed Justice K.P.Sivasubramanian (Retd.) as the Administrator of the Company in liquidation to take possession and charge of the assets of the company and to take inventory, manage/supervise and administer the assets and affairs of the company and on receipt of two claims from EPFO., Coimbatore and EPFO., Salem, based on the proof/documentary evidences submitted by the EPFO., Coimbatore, the Official Liquidator has adjudicated the claim and allowed a sum of Rs.40,82,566/- and rejected a sum of Rs.37,18,618/-, out of the total claimed amount of Rs.78,01,184/- and the Official Liquidator has also adjudicated the claim of EPFO., Salem and admitted a sum of Rs.7,95,504.11 and rejected a sum of Rs.27,03,415.07 out of the total claimed amount of Rs.34,98,919.18.

4.Learned counsel appearing for the Official Liquidator submitted that since the Official Liquidator exercising his power under Rule 163 of the Companies (Court) Rules, has passed the order, if the appellant is aggrieved, the remedy lies before the Company Court under Section 164 of the Companies (Court) Rules.

5.Learned counsel appearing for the appellant fairly submitted that the matter may be closed giving liberty to the appellant to proceed in accordance with law.

6.Taking note of the status report filed by the Official Liquidator and the submissions made by both the learned counsel, this Court is inclined to grant liberty to the appellant to proceed further in the manner known to law, while dismissing this appeal.



7. Accordingly, this appeal stands dismissed granting liberty to the appellant to pursue the matter in the manner known to law.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Official Liquidator,
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15 & 16, Rattan Bazaar,
Chennai - 600 003.

+1cc to Ms.R.Meenakshi, Advocate, S.R.No.44159

+1cc to Mr.K.Moorthy, Advocate, S.R.No.44165

W.A.No.1574 of 2013
and M.P.No.1 of 2013

SV-I (CO)
CS/27/09/2021