Comp.A.No.128 of 2021
in
C.P.No.255 of 2014

R.SUBRAMANIAN, J.

This application has been filed by the learned Official Liquidator seeking payment of Rs.39,89,478.78/- towards the depreciated value of the asset payable at the end of tenure along with interest on the depreciated value from the date of tenure till 31.01.2021 pertaining to Agreement No.18 and subsequent interest from 01.02.2021 till the date of making final payment.

2.From the report of the learned Official Liquidator, it is seen that the respondent had entered into an equipment lease agreement with the Company under liquidation on 10.08.2011 and the term of the agreement was up to 28.02.2014 . The learned Official Liquidator would claim that the respondent is liable to pay lease rent and also return the asset in good working condition at their own costs. The Official Liquidator had relied upon the clause in the agreement to claim the above said sum.

3.In response, the respondent has filed a counter affidavit stating that the lease rentals were paid regularly and the agreement period was over long back. It is also pointed out that the Official Liquidator had issued notice on 10.03.2015 demanding a sum of Rs.5,417/- together with interest at 18% p.a. and the claim was repudiated by the respondent vide letter dated 14.03.2015. Though the notice dated 21.01.2016 seeks surrender of assets as per the list attached, no list was attached to the said notice. It is also pointed out that by a final notice dated 07.04.2017, the learned Official Liquidator reiterated his demand for Rs.5,417.47/ - along with interest of Rs.3,116.23/-, for a total sum of Rs.8,537.70/-. Upon receipt of the notice with the sole intention on buying peace, the respondent paid Rs.8,537.70/-, which was demanded by the Liquidator. The respondent would also submit that the equipment being an electrical audio equipment has a very short span of life and therefore, it does not have any intrinsic value as of today.

4.However, Mr.Krishna Srinivasn, learned counsel for the respondents would submit that the respondent had infact, attempted to deliver the equipment list to the Liquidator but the Liquidator was hesitant to accept the same, since he had no space. It is clear from the above narration that the claim of the Official Liquidator to a sum of Rs.39,89,478.78/- cannot be acceded to. It is clear that the Liquidator himself has only demanded a sum of Rs.8,537.70/- from the respondent on 07.04.2017 and the said sum has been paid already. The respondent has now offered to return the assets in specie and photographs of the assets have also been produced before me.

5.I therefore, do not think that the claim of the Official Liquidator for a sum of Rs.39,89,478.78/- can be accepted. Since the transaction is a leased transaction, the respondent is liable to return the leased equipment and the respondent had stated that it is ready to return the leased equipment. The Liquidator would claim that the equipment is not in working condition. The lease is of the year 2007 – 2014, it almost 7 years now, the equipments are electrical audio equipments, the functioning of which cannot be guaranteed after so many years. I am therefore, of the considered opinion that this application should be closed with a direction to the liquidator to accept the equipment that are returned by the respondent in as is where is condition.

6.Therefore, this application is closed with the direction to the respondent to return the equipments to the Liquidator and the Liquidator is directed to accept the same.

30.09.2021

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R.SUBRMANIAN, J.

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C.S.No.480 of 2013

30.09.2021