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Comp.A.No.336 of 2021 in C.P.No.101 of 1994

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SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to assail the order of adjudication dated 06.08.2020 of the Official Liquidator.

2. The applicant states that he filed a claim with the Official Liquidator on 21.08.2019 for an aggregate sum of Rs.14,73,16,891. Since such claim was lodged belatedly, it was rejected. Therefore, an application was filed to condone the delay in filing the claim. Such application was allowed on 06.12.2019. Thereafter, the applicant filed its claim on 03.01.2020. Pursuant thereto, the applicant appeared before the Official Liquidator on 13.02.2020 and produced copies of Form-10, the Certificate of Registration of Mortgage dated 13.12.1987, the Articles of Agreement dated 13.12.1987 between the company in liquidation and Hong Kong (Agency) Private Limited acting as Trustee for the applicant, Original Debenture Trust Deed dated 13.12.1987 and the statement of accounts. The Official Liquidator called for further documents from the applicant. Such documents were produced under the communication



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dated 19.03.2020, except for the Articles of Agreement which was said to be unavailable. On 17.03.2020, the Official Liquidator called upon the applicant to depute the authorized person to attend a hearing and provide necessary explanation. It is stated that such authorized representative was unable to attend such hearing on account of the lock down in the wake of the COVID-19 pandemic. The impugned order was passed in these facts and circumstances.

3. The Deputy Official Liquidator represents the company in liquidation. He submits that the claim was rejected for failure to produce all the necessary documents. On perusal of the impugned order, it is clear that such order is cryptic and adverts generically to the non-submission of documentary evidence. The previous communication from the applicant dated 19.03.2020 indicates that the applicant submitted documents such as the original Debenture Trust Deed dated 30.12.1987 and the documents from Registrar of Companies evidencing the charge created over the company's assets. Therefore, the impugned order is not sustainable.

4. Accordingly, this application is allowed by setting aside the impugned order dated 06.08.2020. As a corollary, the Official Liquidator is directed to re-consider the applicant's claim in accordance with law. If any



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further documents are required to be produced by the applicant, the same shall be filed within a period of two weeks from the date of receipt of a copy of this order.

17.12.2021

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