

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 1 OF 2022

IN

COMPANY APPLICATION NO. 214 OF 2001

IN

COMPANY PETITION NO. 7/B/1998.

Maya C. Naik

... Applicant

Versus

Official Liquidator

...Respondent

Mr. Nigel Fernandes, Advocate for the Applicant.

Ms. Amira Razaq, Advocate for Official Liquidator.

CORAM. A. K. MENON, J

DATED. 6th April 2022

P.C.

1. This is an application seeking waiver of interest of 20% on the decretal sum pursuant to the order dated 07.06.2002 passed in Company Application No.214 of 2001.

2. Learned Counsel for the applicant submits that the principal sum of ₹ 21,541.02 has already been paid and the only aspect now to be considered is payment of interest. He submits that respondents were absent when the Order was passed and could not show cause

against grant of interest of 20%. The sum of ₹ 21,541.02 having been paid, he submits that interest stopped running.

3. Ms. Razaq has tendered a statement of interest computed, which reveals that as on date, a sum of ₹ 85,865/- is due towards interest after giving credit for the principal sum which was paid on or about 30.08.2019. Ms. Razaq confirms that the said amount has been appropriated towards principal amount by the office of the liquidator and thus liability to pay interest stopped upon the payment of the principal sum.

4. The Applicant has set out various reasons for her inability to pay amount of interest as contained in the paragraphs 6 to 10 of the affidavit. Mr. Fernandes therefore, seeks modification of the order dated 07.06.2002 by waiving interest. In my view, waiver of interest would not be justified, however, after this matter was heard for sometime and on a query from the Court, the learned Counsel for the applicant, on instructions of the applicant who is present in Court, states that she will be able to pay a sum of ₹ 20,000/- in full and final settlement after she makes arrangements for funds from friends and relatives. Mr. Fernandes states that if the amount is paid, the decree

may be marked satisfied, by modifying it to the extent that no further interest will have to be paid.

5. Considering the factual aspects which are pleaded in this application and the fact that she is not employed as set out to the annexure to the application, I am of the view that this is a fit case where interest shall be reduced but cannot be waived in its entirety. In my view, the applicant's request that upon payment of ₹ 20,000/- on or before 10.05.2022, the decree/order can be marked satisfied.

6. Accordingly, I pass the following directions :

(i) The applicant is directed to pay a sum of ₹20,000/- for which ₹10,000/- will be paid on or before 18.04.2022. The balance sum will be paid on or before 10.05.2022. The amount shall be paid directly to the Official Liquidator to the credit of the Company in liquidation.

(ii) If the entire sum of ₹ 20,000/- interest is paid by 10.05.2022, the decree/order will be marked satisfied. In default, this order shall stand vacated.

(iii) The application stands disposed in the above terms.

(iv) All concerned to act on an authenticated copy of this order.

A. K. MENON, J

ANDREZA PEREIRA Digitally signed by ANDREZA PEREIRA
Date: 2022.04.06 18:38:52 +05'30'