

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 379 OF 2018
IN
COMPANY APPLICATION NO. 555 OF 2016

Solid Carbide Tools Ltd ...Appellant
Versus
The Official Liquidator High Court Bombay & ...Respondents
Anr

Mr Kunal Kanungo, with Paras Oza, i/b S Venkateshwar, for the
Appellant.
Mr Sandesh Patil, for Respondent No.2 (ED)
Mr Aditya Pimple, for Official Liquidator.

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CORAM G.S. Patel &
Gauri Godse, JJ.
DATED: 19th July 2022

PC:-

1. The Appeal is thoroughly misconceived. It is ostensibly directed against two orders of 20th January 2016 and 7th October 2016. By that order of 7th October 2016, the learned Single Judge, KR Shriram J modified paragraph 13 of his previous order of 20th January 2016.

2. A copy of the 20th January 2016 order is available from page 10 onwards. That order was made on a company application moved by the Enforcement Directorate. The company, the present Appellant, Solid Carbide Tools Ltd, was then supposedly in liquidation. The Enforcement Directorate had previously passed an order, one that is said to have attained finality some time in 2006. Shriram J held that since the company was in liquidation, or so the Court was told, it was the Official Liquidator who should have been given a notice by the Enforcement Directorate. In paragraph 13, therefore, the learned Single Judge directed the Enforcement Directorate to issue a fresh show-cause notice to the Official Liquidator, who was then to defend it. The show-cause notice was to be restricted only to the Official Liquidator and only for the purposes of defending the company. Then there were directions about the time period within which this was to be done and also for furnishing copies.

3. By the latter order of 7th October 2016, the learned Single Judge considered an application by the company, Solid Carbide Tools Ltd. It was pointed out that the company was out of liquidation when the order of 20th January 2016 was made. This was evidently not pointed out to the learned Single Judge at the time of the earlier order. Consequently, on 7th October 2016 the learned Single Judge modified paragraph 13 of the previous order of 20th January 2016. All references to the Official Liquidator were substituted by and with references to the company; the rest remained unchanged.

4. Solid Carbide Tools Ltd comes up in Appeal. What is being attempted is clear and obvious. It is now sought to be argued that the Enforcement Directorate knew at the time of its first application that Solid Carbide Tools Ltd was in liquidation. It should have issued a notice to the Official Liquidator. Its representation in its Company Application that it was unaware of Solid Carbide Tools Ltd being in liquidation was incorrect. As far as back as in 2004, the Enforcement Directorate had been informed that there were proceedings against the company and is in liquidation. These are the submissions made before us on behalf of the Appellant.

5. These are not reasons to interfere with the impugned order. What the Appellant now attempts to do is effectively to say that the Enforcement Directorate should be stopped in its tracks and any notice that it issues to company should be held to be null and void and of no legal effect. Enforcement Directorate proceedings under a completely different statute are thus sought to be completely ended and closed by filing such an Appeal and saying orders of the company Court directing notices to be issued should be recalled.

6. There is absolutely no substance to the Appeal. We refuse to allow our discretionary powers to be used by Appellants for ulterior or ancillary purposes like this.

7. The Appeal is dismissed with no order as to costs.

(Gauri Godse, J)

(G. S. Patel, J)