



WEB COPY



*Comp.A.No.72 of 2022
in C.P.No.130 of 1999*

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M.SUNDAR, J.,

Captioned application has been filed with a 'condonation of delay' ['COD'] prayer.

2. COD of 2443 days is sought qua delay in filing Form No.66 {claim form by a claimant/creditor qua company under liquidation being prescribed form under Rule 151 of the Companies (Court) Rules, 1959}.

3. Mr.R.S.Maitreya, learned counsel for applicant is before this Court.

4. Adverting to the affidavit filed in support of captioned application, learned counsel submits that the applicant was not aware of winding up proceedings.



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WEB COPY 5. Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator'

[hereinafter 'Deputy OL' for the sake of convenience and clarity] representing 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of convenience and clarity] who is before this Court submits that the last date for submission of Form 66 was 30.06.2015 but the applicant lodged the claim only on 27.09.2021 and therefore the office of OL sent a communication dated 13.10.2021 saying the claim cannot be entertained without the delay being condoned by this Company Court.

6. This Court reminds itself of ***Esha Bhattacharjee*** case, being ***Esha Bhattacharjee Vs. Raghunathpur Nafar Academy*** reported in ***(2013) 12 SCC 649*** i.e., principle that the affidavit in support qua a COD prayer should not be made in a casual manner.

7. In the considered view of this Court, the support affidavit has been made in a casual manner and it is not in tune with ***Esha Bhattacharjee*** principle.



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WEB COPY 8. However, notwithstanding the above position, this Court is inclined to accede to COD prayer in the captioned application and reasons are as follows:

(a) The claim of applicant is only Rs.27,500/-;

(b) Learned Deputy OL submits that monies are available for disbursement. This means that the applicant is likely to get benefit if Form No.66 is entertained;

9. Considering the facts and circumstances of this case and for the reasons alluded to supra, the captioned COD application is ordered and delay is condoned, subject to condition that the applicant submits Form No.66 with all supporting documents (originals) within a fortnight from today i.e., by 08.04.2022. If Form No.66 is not submitted within a fortnight from today, this COD order will work itself out and will stand effaced. It is made clear that this order will not serve as a precedent as it is being made owing to the unique facts and circumstances of this case. There shall be no order as to costs.

25.03.2022

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