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Comp.A.No.266 of 2018

Comp.A.No.266 of 2018
in
C.P.No.255 of 2014

C.SARAVANAN, J.

There is no representation on behalf of the respondent despite the name being printed in the cause list.

2. This application has been filed by the Official Liquidator under Sections 466(2) and 460 (4) of the Companies Act, 1956 read with Rules 9,11(b) of Companies (Court) Rules, 1959 for the following relief:-

- i. To direct the respondent/debtor Company to pay the debt due amount of Rs.1,30,839.04 towards entire settlement along with subsequent interest @ 18% p.a. till the date of final payment;
- ii. To direct the respondent to surrender the assets as per Clause 3(d) of the Lease Agreement.
- iii. To permit the Official Liquidator the cost of this application does come out of the funds of the company in Provisional Liquidation.



3. In the report filed by the Official Liquidator in support of the application, it has been stated as follows:-

“3. That the Official Liquidator submits that the Company in Provisional Liquidation had entered into Lease Agreement and lent money to the Respondent herein for the purpose of purchase of Xerox Model Workcentres 7765 along with accessories etc. The detail of the agreement are mentioned below:-

Agreement No.	Nature	Agreement Value	Agreement Date	Tenor got Over on
1.	Lease	Rs.12,25,000.00	04.12.2009	01.12.2012

(Copies of Lease Agreement and Customer wise Disbursement Report are annexed as Annexure – A & B).

4. That the Ex-Managing Director of the Company in Provisional Liquidation has filed the statement of Affairs along with a list of borrowers on 21.08.2014. As per the list of borrowers, the respondent herein has been shown as a debtor and a sum of Rs.69,029/- payable by them as on date of winding up order.

5. That the Official Liquidator submits that as per the Statement of Affairs filed by the Ex-Directors, Official Liquidator has issued Demand notice dated 06.02.2015 demanding a sum of Rs.69,029.22 and the said notice was acknowledged by the said



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*Respondent on 12.02.2015. Thereafter, Official liquidator has sent reminder letter dated 16.10.2015 to the respondent company directing to pay the outstanding debt due amount of Rs.69,029.22 together with interest @ 18% p.a. and no reply or payment has been received from the respondent till date. Based on the ledger account maintained by the company in liquidation, the Official Liquidator has issued **FINAL NOTICE** dated 31.01.2017 directing to pay the outstanding amount of Rs.69,029.22 along with End Management @ 2% on the disbursement value for Rs.24,500.00 and Interest for the period from 31.07.2014 to 31.01.2017 @ 18% p.a. for Rs.31,097.19 totaling Rs.1,24,626.41 on or before 31.01.2017 the said notice was acknowledged by the respondent on 06.02.2017 however no reply from them till date **(Copies of the Letters acknowledgement cards as Annexed – C).***

*6. That the Official Liquidator submits that since the respondent has not shown any interest on settling the due amount, the Official Liquidator has no other option except to prefer this application under Section 446(2) of the Companies Act, 1956 before this Hon'ble Court praying for an order directing the respondent to pay the outstanding amount of Rs.69,029.22 along with End Management Fee @ 2% on transaction value for Rs.24,500.00 and Interest @ 18% p.a. from 31.07.2014 to 31.07.2017 for Rs.37,309.82 totaling to **Rs.1,30,839.04** along with Subsequent Interest @ 18% p.a till date of final payment. **(Copy of***



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***Ledger Statement along with Interest Calculation
Sheet are annexed as Annexure – D).***

4. In view of the above and since the respondent has neither entered appearance nor filed any counter, the Court is inclined to allow this application. Accordingly, the application stands allowed.

13.10.2023

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