

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-31573-2014 (O&M)

Date of decision : 11.08.2023

YOGESH CHANDRA JHALANI

....Petitioner

Versus

EMPLOYEES PROVIDENT FUND ORGANIZATION

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sartej S. Narula, Advocate
for the petitioner.

Mr. Sandeep Goyal, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

By way of instant petition filed under Section 482 Cr.P.C. petitioner prays for quashing (compounding of offence u/s 138 of the Negotiable Instruments Act) of complaint case No.272 dated 21st of January, 2004 titled as Employees Organisation Provident Fund vs. M/s Jhalani Tools (India) Ltd. and others (Annexure P-14) along with all proceedings subsequent thereto including judgment of conviction and order of sentence dated 31st of August, 2012/1st of September, 2012 (Annexure P-15)

2. On 3rd of August, 2023 following order was passed :

“Learned counsel for the petitioner submits that present proceedings under Section 138 of the Negotiable Instruments Act emanated from the arrears that the petitioner's company owed to the respondent.

Respondent has specified the liability towards which the cheque was issued in its complaint which is at page-119 of the paper book. The said liability as claimed was adjudicated by the Official Liquidator as the Company went into liquidation and was ordered to be wound up by Delhi High Court vide order dated 18.03.2003 (Annexure P-1). A comparison of liabilities adjudicated at page-91 by Official Liquidator to those claimed by the complainant at page-119 would show that in fact the liability which is subject matter of complaint stands discharged as the Official Liquidator has already paid the aforesaid amount.

Learned counsel for the respondents-Organization prays for time to seek instructions.

Adjourned to 11.08.2023.”

3. Today Mr. Sandeep Goyal, Advocate, Ld. Counsel representing the Employees Provident Fund Organisation has produced Office Note dated 9th of August, 2023 bearing Reference No. Recovery/HR/FBD/286/Jhalani/213, dated 9th of August, 2023 to the following effect :

“OFFICE NOTE

Kindly refer to your Office Note no. HR/FBD/Legal/HC/148 dated 08.08.2023. In this regard, it is intimated that the cheque bearing no.'095857' dated 30.09.2003 amounting to Rs. 5,71,00,000/- was dishonoured. However, as per this office records, the official liquidator (in case of Jhalani Tools India Ltd) has deposited the remaining amount on 19.03.2020 and as on date all the RRCs in respect of the establishment stands fully liquidated.

XXXXX”

4. Keeping in view the aforesaid fact that the amount already

stands released to the organization by Official Liquidator, the present petition is allowed. Proceedings initiated against the petitioner under Section 138 of the N.I. Act vide complaint case No.272 dated 21st of January, 2004 titled as 'Employees Organisation Provident Fund vs. M/s Jhalani Tools (India) Ltd. and others' including the judgment of conviction and order of sentence dated 31st of August, 2012/1st of September, 2012 are ordered to have been compounded.

5. Ordered accordingly.

August 11, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No