

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**OFFICIAL LIQUIDATOR REPORT NO.96 OF 2024
IN
COMPANY PETITION NO.200 OF 2014**

In the matter of the Companies Act,
I of 1956;

And

In the matter of Shree Marathwada
Paper Mills Pvt Ltd. (In Liquidation)

SICOM Ltd

...Petitioner

Mr. Rohan Satija i/b AZB & partners, Advocate for the Petitioner.

Mr. Sunil Kadam, Advocate for Maharashtra State Financial
Corporation- Noticee No.5.

Mr. Ashok Patil-Ex-Director is present in Court.

Mr. Rushabh Sheth, Advocate for the Official Liquidator.

Mr. C7888888handan Kumar, Official Liquidator is present.

Mr. Anil Bhagure, Assistant Official Liquidator is present.

**CORAM : ABHAY AHUJA, J.
DATE : 30th AUGUST, 2024**

PC. :

1. This Official Liquidator's Report prays for the following
directions:-

“a) In view of the submission made in para (11), (12) & (15)
supra of this report, whether this Hon'ble Court may be
pleased to allow the Official Liquidator to file Writ Petition
challenging the order dated 15/04/2024 passed by the
Hon'ble District Judge-2, Pune in Civil Misc. Application No.
477 of 2022 thereby rejecting the Application below
(Exhibit-42) for framing preliminary issue of limitation
without providing detailed reasoning.”

2. When the matter is called out, learned Counsel appearing for the Noticees No. 3 and 4 points out that the preliminary objection raised on the issue of limitation has been rejected by the District Judge at Pune on the ground that the preliminary issue involves mixed questions of law and facts and therefore, the learned Judge has kept the point of limitation open to be decided along with other issues while deciding the main application under Section 34 of the Arbitration and Conciliation Act. That, therefore, this Court not entertain the prayer made by the Official Liquidator.

3. Mr. Sheth, learned Counsel appears for the Official Liquidator and submits that since there was a delay of more than 1000 days and considering the fact that in a commercial arbitration, the application under Section 34 of the Arbitration and Conciliation Act cannot be filed beyond the period of 120 days, the said application before the District Judge is barred by limitation and that the preliminary issue raised by the Official Liquidator ought to have been considered and the Application under Section 34 of the Arbitration and Conciliation Act ought to have been dismissed on that ground.

4. Mr. Satija, learned Counsel appearing for the Sicom Limited and Mr. Kadam, learned Counsel appearing for the MSFC submit that since

the signed certified copy of the award was received on 24th February, 2022, there is no delay in filing the Applications under Section 34 of the Arbitration and Conciliation Act, which is disputed by the learned Counsel for the Official Liquidator as well as Ex-Director present in the Court, who is Noticee No.1 to the Official Liquidator's Report

5. I have perused the order passed by the learned District Judge. From a perusal of paragraphs 5 and 6 of the order and the contentions raised with respect to the number of days of delay, the learned Counsel for the Official Liquidator submitting that the delay is more than 1000 days and the learned Counsel for the Sicom and MSFC submitting that there is no delay as the signed certified copy of the award was received on 24th February, 2022, it emerges that there is a mixed question of fact and law and therefore, the point of limitation has correctly been kept open to be decided along with other issues while deciding the Application under Section 34 of the Arbitration and Conciliation Act, to be considered along with other issues. I, therefore, do not consider it necessary for the Official Liquidator to file any Petition challenging the order dated 15th April, 2024 of the learned District Judge in Civil Misc. Application No. 477 of 2022.

6. The Official Liquidator's Report accordingly stands disposed as above.

(ABHAY AHUJA, J.)

NIKITA
YOGESH
GADGIL

Digitally signed by
NIKITA YOGESH
GADGIL
Date: 2024.08.31
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