IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

Company Application (CAL) No. 7 of 2016
in
Company Petition No. 5 of 2001

[M/s Krishidhan Seeds Pvt. Ltd., Indore, Madhya Pradesh through its Managing Director Mr. Sushil Karwa **vs.** M/s. Akola Oil Industries Ltd. through its official liquidator and anr.]

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. A. B. Patil, Advocate for the applicant
Dr. Anjan De, Advocate for Official Liquidator/respondent no. 1
Mr. N. R. Raut, Advocate for respondent no. 2
Mr. H. N. Verma, Advocate for Provident Fund Department

CORAM : ANIL L. PANSARE J.

DATED : 26-07-2024

On previous date, following order was passed.

“Heard for some time.

2. The applicant – M/s Krishidhan Seeds Pvt. Ltd. has filed pursis stating therein that Prudent ARC Ltd. has taken over the account of the applicant – company from State Bank of India and it has stepped into the shoes of the State Bank of India. Accordingly, the Prudent ARC Ltd. has been arrayed as respondent no.2 in the present application.

3. The applicant-Company and Prudent ARC Ltd. have now arrived at an amicable settlement. The applicant company has no objection for releasing the amount of Rs. 2,49,00,000/- (approximately) along with interest accrued thereon (if any) lying with the Official Liquidator, in favour of Prudent ARC Ltd.

4. Thus, the issue, inter se, between the applicant –company and Prudent ARC Ltd. (Originally State Bank of India) has been now settled. So far as releasing the amount of Rs.2,49,00,000/- (approximately) is concerned, it is stated that the workers’ dues, if any, are payable by the Official

Liquidator. The Official Liquidator submits that the workers dues have been paid long back.

5. As regards claim of Provident Fund, the Official Liquidator submits that the claim is not maintainable.

6. Mr. Patil, learned counsel for the applicant has invited my attention to the affidavit filed by the Official Liquidator in the month of November 2023 in Civil Application No. 1492/2023 in Writ Petition No. 822/2013 (D), stating therein that the office of Provident Fund has raised claim of Rs.3,23,41,954/-.

7. The empanelled Chartered Accountant opined that this claim is not eligible. Thus, it appears that the claim of provident fund is not yet adjudicated by the Official Liquidator.

8. In the circumstances, following directions are issued:

(i) The Official Liquidator shall immediately proceed to adjudicate the claim. He may invite Chartered Accountant and concerned officers from the Provident Fund Department and all those who would assist him to adjudicate the claim. The Official Liquidator shall file report.

The report shall be filed on or before 26.07.2024."

2. Learned counsel for the applicant submits that the applicant has already given no objection to release the amount of ₹ 2,49,47,065/- in favour of respondent no. 2 – Prudent ARC Limited (Originally State Bank of India). He makes a request to direct the Official Liquidator to pay along with the aforesaid amount interest accrued thereon.

3. Dr. De, learned counsel for Official Liquidator submits that the Official Liquidator has only one account

and, therefore, he will have to seek instructions as to whether this amount of ₹ 2,49,47,065/- was invested in Fixed Deposit or lying in the account of Official Liquidator.

4. Learned Counsel Mr. H. N. Verma is present for the Provident Fund Department. He seeks time to verify the claim of provident fund and to make a statement to that effect on next date.

5. When enquired, Dr. De submits that the funds available to the credit of the company under liquidation is about ₹ 28 Crores. In addition, there are certain immovable properties which will be auctioned in due course and thus additional fund will be generated. In that sense, the company under liquidation has sufficient funds to pay the debts of creditors including the Provident Fund Department.

6. In the circumstances and in terms of Section 529A of the Companies Act read with Section 13(9) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, I do not find any impediment to release the amount of ₹ 2,49,47,065/- in favour of Prudent ARC Limited (Originally State Bank of India). Order accordingly.

7. As regards interest, the Official Liquidator shall verify whether the amount of ₹ 2,49,47,065/- was separately invested or was required to be invested in terms of the provisions of the Companies Act, 1956. If the amount is invested in Fixed Deposit or the interest is otherwise payable on the amount so received, the

Official Liquidator shall release the amount along with interest as payable, else Official Liquidator shall release only ₹ 2,49,47,065/-.

8. The applicant is at liberty to challenge the issue of payment of interest, if it goes against it.

9. Company application is disposed of in above terms.

(Anil L. Pansare, J.)

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