Comp.A.No.143 of 2021
in C.P.No.255 of 2014

K.KUMARESH BABU, J.

The application had been taken out by the Official Liquidator

(a) To take this Report on record,

(b) To direct the respondent/ debtor to return the asset in good working condition and pay a sum of Rs.6,13,981.85 along with subsequent interest @18% p.a. on Depreciation value of the asset from 01.03.2021 to till the date of returning the asset,

(or)

(c) To direct the respondent/ debtor to retain the asset and pay a sum of Rs.11,88,666.65 along with subsequent interest @ 18% p.a. on Depreciation value of the asset from 01.03.2021 to till the date ofmaking final payment,

(d) To permit the Official Liquidator to incur the cost of this application does come out of the funds of the company in Provisional Liquidation,

(e) To pass such other order(s)

2. Heard Ms.Ambili, Deputy Official Liquidator appearing on behalf of the applicant and Mr.K.Harishankar, learned counsel appearing on behalf of the respondents

3. The learned Official Liquidator would submit that as per the accounts submitted by the ex-Directors of the Company in liquidation, a sum of Rs.78,552/- was shown to be payable by the respondent as on the date of the order of winding up. Hence, a notice has been issued to the respondents calling upon them to pay the said amount and till today they have not paid the said amount and they have claimed that there is no outstanding balance as per their Books of Accounts to be paid to the Compay in liquidation. However, on verification of Books of Accounts and the statement of affairs filed by the Ex-Directors of the Company, the debt amount was shown and hence, by a letter dated 05.01.2016 to the respondents, they were called upon to pay a sum of Rs 3,90,164.22 which included the actual outstanding amount of Rs 1,46,069.33 as on 01.12.2015. Since, the amount remained unpaid, the present application had been taken out and therefore, the Official Liquidator seeks a direction to direct the respondents to pay the said amount.

4. Contesting the claim of the applicant, Mr.K.Harishankar, the learned counsel appearing on behalf of the respondents would contend that originally by a communication dated 23.02.2015, a sum of Rs.78,552/- was demanded by the applicant together with interest at the rate of 18% p.a. Finally by a communication dated 28.04.2017, the respondent were directed to pay a sum of Rs.1,63,309.85 along with interest at the rate of 18% till the date of making the payment. The said sum of Rs.1,63,310/- was also paid by the applicant on 17.05.2017 for which a receipt was also issued by the applicant on 22.05.2017. However, a further demand was made by the Official Liquidator claiming a sum of Rs.1,099 /-towards the interest on the outstanding balance from 01.05.2017 to 21.05.2017 which was indicated & the interest on the said payment had been made by the applicant. However, an additional claim of the depreciation value of asset was made to the tune of Rs.12,47,884/-. The same was opposed to by the applicant but had also made the remittance of Rs.1,099/- which was the interest on the agreed amount. Even thereafter, varied claims have been made by the Office of the Official Liquidator which according to him is not tenable. He would submit that what had been taken on Higher Purchase Agreement from the company in liquidation was computers which would become obsolete after a period of time because of the updation in the

technology and the old systems and softwares become obsolete without any value. He would submit that the claim of the applicant on the ground of depriciation and value of the product which has become zero in view of the updation of technology is wholly unsustainable. He would further submit that by relying upon the additional counter affidavit, he would contend that the interest on the depricated value of the system that had been hired by the respondents under the two Agreement would only come to Rs.86,031/- and Rs.86,309/- respectively and that to give a quietes to the issue, he is willing to make the aforesaid payment.

5. I have considered the rival submissions made by the respective counsels apearing in either side and perused the materials available on record.

6. The respondents have taken on a higher purchase agreement certain softwares and hardwares from the company in liquidation. Admittedly, the value of an electronic item deprecates and becomes zero after a relevant point of time. The Agreements have been entered into between the respondent and the applicant during the year 2011 and 2012. The respondents were fulfilling their obligations till the company went into

liquidation and only on and from that date the respondent is liable to make the payment to the Official Liquidator. It is also not disputed that such amounts have been regularly paid, what was left to be paid by the respondent was a sum of Rs.1,63,310/- which had been demanded by the Official Liquidator and admittedly paid by the respondents. The claim of interest on the deprecated value of asset of a Higher Purchase Agreement along with the value of the asset after the value of the asset has been deprecated as 'nil' in my view cannot be countenanced and therefore, the application as prayed for by the Official Liquidator cannot be entertained. But, however considering the fact that the respondents had admitted to pay a sum of Rs.1,72,340/- the Official Liquidator is directed to receive the said payment. The payment admitted by the respondent shall be made within a period of four (4) weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this application is disposed of. However there shall be no order as to costs.

Gba **23.08.2024**

K.KUMARESH BABU, J.

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