Comp.A.No.357 of 2022 in
C.P.No.245 of 2013

C.SARAVANAN, J.

The applicants herein is the successful bidder of the assets of the company under liquidation which was ordered to be wound up on 20.10.2014 in the above company petition. The sale was confirmed in favour of the applicants pursuant to order dated 24.02.2020. The applicants have paid a sum of Rs.2,21,00,000/- to the Official Liquidator. A sale certificate has also been issued in favour of the applicants on 11.03.2021. After the sale certificate was issued in favour of the applicants, the applicants have received a demand notice from the Erode Municipality seeking to demand property tax for the property for the period between 2002-2003 to 2021-2022 for a sum of Rs.8,47,200/-.

2. The applicants have paid the aforesaid amount and now states that the amounts of tax paid for the period before winding up order dated 20.10.2014 cannot be fastened to the applicants. The applicants have therefore quantified the tax for the period between 2002 to 2014 as Rs.4,45,500/- to be repaid/reimbursed by the office of the Official Liquidator.

3. The learned counsel for the applicants has drawn attention to the report dated 10.02.2023 of the Official Liquidator, wherein, in Paragraph 7 it has been stated as follows:-

> "7. That as per the terms and conditions of the sale in Sl.No.16, the purchaser shall be liable to pay all statutory dues, if any, due and payable on the properties of the subject company for the period after the date of winding up order. The payment of such dues for pre-liquidation period shall be settled as per the provisions of Companies Act, 1956. However, dues, taxes, cess, if any, applicable on the sale of assets shall be paid by purchaser. The terms and conditions of sale in C.A.No.242/2019 in C.P.No.245/2013 is enclosed and marked as Annexure-A."

4. The learned counsel for the applicant would submit that there is an order of this Court dated 10.07.2023. As per which there is a positive direction subject to the applicants complying with the requirements of filing a claim statement in Form 66. The learned counsel for the applicant also drew attention to Paragraph 5 of the order dated 10.07.2023 which reads as under:-

> "5. Accordingly, the applicants are directed to submit Form 66 with the Official Liquidator's office with regard to the request for reimbursement of

> Rs.4,45,000/-, within a period of one week from the date of receipt of a copy of this order. On receipt of such an application, the Official Liquidator shall process the said application and adjudicate the same by reimbursing a sum of Rs.4,45,000/- to the applicants, within a period of three weeks thereafter. Before reimbursement of the sum, the Official Liquidator shall file a formal application before this Court seeking for its approval."

5. *Prima facie*, the applicants are not entitled to a direction for payment of the aforesaid amount of Rs.4,45,500/-. Such payments can be made only in accordance with the provisions of the Companies Act, 1956 and the provisions of the Company Court Rules, 1959.

6. The applicants are entitled to reimbursement of the tax paid by the applicants towards payment of property tax post winding up order i.e, for the period after 20.10.2014. To that extent, i.e, Rs.4,01,700/- [Rs.8,47,200/- – Rs.4,45,500/-] the claim of the applicants are directed to be processed. As far as refund of Rs.4,45,500/- is concerned, it is open to get suitable clarifications from the Hon'ble Mr.Justice ABDUL QUDDHOSE who passed an order on 10.02.2023.

7. Thus, in the result, liberty is given to the applicants to file appropriate Claim Statement in Form – 66 for the reimbursement of Rs.4,01,700/- [Rs.8,47,200/- – Rs.4,45,500/-] being the property tax during the pendency of the winding up proceedings. As far as reimbursement of Rs.4,45,500/- is concerned, since it not payable, liberty is given to obtain suitable clarifications from the Hon'ble Mr.Justice ABDUL QUDDHOSE, if the applicants wants to still press for the relief.

8. This application stands disposed of with the above observations.

19.01.2024

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C.SARAVANAN, J.

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