



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

INTERIM APPLICATION [L] NO.37013 OF 2024
IN
COMPANY PETITION NO. 595 OF 2007

Vidhya Pharmachem Pvt. Ltd. ...Applicant.

Versus

M/s. Marine Micro Tech INC Ltd. ...Respondent.

Mr. Swaraj Jadhav for the Applicant.

Ms. Apurva Thipsay for Official Liquidator.

Coram : Sharmila U. Deshmukh, J.

Date : June 26, 2025.

P. C. :

1. At the outset, Mr. Jadhav, learned Counsel appearing for the Applicant seeks leave to amend the prayer clause so as to seek recall of the order dated 15th June 2017 passed in Company Petition No.595 of 2007. Leave granted. Amendment to be carried out within two weeks.
2. Interim Application has been preferred by the original petitioning creditor seeking recall of the order of 15th June 2017 by which the Company Petition came to be dismissed for non prosecution.
3. Mr. Jadhav, learned Counsel appearing for the Applicant submits that by order of 7th August 2014, this Court had ordered winding up of the Respondent No.1-Company and had appointed the Official Liquidator. He submits that on 7th November 2014, the Respondent No.

*[This is the **Corrected Order** in terms of speaking to minutes order dtd 16-7-2025]*

1-Company filed a Company Application seeking recall of *ex parte* winding up order and by order dated 3rd February 2017 this Court recalled the order of winding up and restored the Company Petition to file and discharged the Official Liquidator.

4. He would submit that the Applicant-Company was facing winding up proceedings before this Court since 2015 and before the NCLT, which has now been disposed of. The Applicant is now out of insolvency proceedings. He submits that thereafter communication has been established with the office of Official Liquidator to inquire about assets of the company, however, there was no response from the Official Liquidator and details as to assets of the company under liquidation which were taken over by the Official Liquidator are not available. He submits that delay in taking out the present Interim Application for recall of the order be condoned.

5. Learned Counsel appearing for the Official Liquidator submits that Official Liquidator has been discharged by order of 2017 and at present the papers and proceedings are not traceable. She would further submit that in view of the recall of the *ex parte* order, only the Company Petition can be restored and no relief can be granted as regards furnishing the details about the assets of the Company under liquidation.

6. I have considered the submissions and perused the record.

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7. It is an undisputed position as pleaded by Mr. Jadhav that the order of winding up of Respondent-Company was recalled by order of 3rd February 2017. In view of the recall, the Company Petition will have to be heard in order to consider whether the order of winding up can be passed in respect of the Respondent-Company. It is only after the order of winding up has been passed that further directions can be granted in favour of the petitioning creditor as regards the assets of the company under liquidation.

8. Today the position that stands is that Company Petition has been dismissed for non prosecution and the only relief which can be granted is condoning the delay and restoring the Company Petition to file.

9. As far as delay is concerned, there is sufficient explanation in the Application as the petitioning creditor-Company was under liquidation and it is only in the year 2024, that the petitioning Company has come out of liquidation. In view of the sufficient explanation, delay in taking out present Application is condoned. The order of 15th June 2017 passed in Company Petition No. 595 of 2007 dismissing the Company Petition for non prosecution is recalled. Company Petition is restored to file.

10. List the Company Petition for further consideration on **16th July 2025.**

[Sharmila U. Deshmukh, J.]

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