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Comp. A. No.463 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2025

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Comp. A. No.463 of 2024

in

C.P. No.36 of 2006

International Asset Reconstruction
Company Private Ltd.,
Rep. by its Senior Vice President
and Group Head (South)
Ms.Aruna Mannath

vs

.... Applicant

The Official Liquidator,
High Court,
Madras

.... Respondent

For Applicant : Mr.V. V. Sivakumar
For Respondent : Ms.Ambili
Dy. Official Liquidator

ORDER

This application has been filed aggrieved by the order dated 30.09.2024 under which the claim of the applicant was partly rejected.

The applicant claims that instead of allowing the entire claim, the



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respondent / Official Liquidator has allowed only part of the claim by total non application of mind and through a non-reasoned order.

2. The primary contention of the applicant is that under the impugned order, dated 30.09.2024 vide its Form No.69, in a completely mechanical manner without examining and discussing the loan and contractual documents executed between the applicant and the Company Under Liquidation, the respondent has adjudicated the claim only by partly allowing the claim of the applicant, instead of allowing the claim in total.

3. The learned counsel for the applicant drew the attention of this Court to various documents filed along with this application and in particular, he drew the attention of this Court to the Recovery Certificate issued by Debts Recovery Tribunal at Mumbai in favour of the applicant on 04.04.2003 and would submit that without giving due consideration to the same, the respondent / Official Liquidator has erroneously awarded only part of the claim of the applicant. He also pointed out that the alleged discrepancies raised in this application with regard to the impugned adjudication order passed by the respondent / Official



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Liquidator. It is also submitted by the learned counsel for the applicant that the respondent / Official Liquidator erred in rejecting the claim of Rs.13,04,85,962/- out of the total claim of Rs.16,63,30,575/-, by relying on an Assignment Agreement executed between the Assignor Banks and the applicant, which is totally wrong. According to him, despite producing the Recovery Certificate issued by the Debt Recovery Tribunal in respect of the recovery for proving the claim of the applicant amounting to Rs.16,63,30,575/-, the respondent / Official Liquidator under the impugned order has erroneously by total non application of mind and without giving any reasons has allowed only part of the claim of the applicant instead of awarding the total claim as claimed by the applicant. According to him, even without seeking any clarification from the applicant, arbitrarily and in a mechanical manner, the respondent / Official Liquidator has passed the impugned order by awarding only part of the applicant's claim.

4. A report has been filed by the respondent / Official Liquidator as a counter to the application reiterating the contents of the impugned order. Along with the said report, documents placed on record by the applicant have also been filed. However, as seen from the impugned



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order, the contentions of the applicant as claimed in this application have not been considered by a reasoned order. Admittedly, no clarification was sought for from the applicant by the respondent / Official Liquidator before passing the impugned order, under which, only part of the applicant's claim was granted. In the normal course, the respondent / Official Liquidator whenever, he has any clarification with regard to the applicant's claim, he ought to have received clarification from the applicant and only thereafter through a reasoned order can adjudicate the claim. But in the instant case, since the contentions of the applicant as raised in this application have not been considered and no clarification was sought for prior to passing of the impugned order by the respondent / Official Liquidator, this Court is of the considered view that the impugned order has been passed in a mechanical manner and by a non-reasoned order and by non application of mind to the contentions of the applicant which have been raised in this application.

5. For the foregoing reasons, the impugned order has to be quashed and the matter has to be remanded back to the respondent for fresh consideration with regard to the contentions of the applicant as raised in this application after affording a fair hearing to the applicant,



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within a time frame to be fixed by this Court. Accordingly, in view of the fact that the impugned order has been passed by total non application of mind and in a mechanical manner and through a non-reasoned order, the impugned order, dated 30.09.2024 is hereby quashed and the matter is remanded back to the respondent / Official Liquidator for fresh consideration on merits and in accordance with law and the respondent is directed to consider all the contentions that have been raised by the applicant in this application afresh and the respondent is directed to pass a fresh order, within a period of four weeks from the date of receipt of a copy of this order.

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ABDUL QUDDHOSE, J.

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