

The Official Liquidator vs the Official Liquidator

The Official Liquidator vs the Official Liquidator

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Court : Chennai

Decided On : Jan-20-2025

Judge : Honourable Mr Justice S. S. Sundar, Honourable Mr. Justice P. Dhanabal

Appeal No. : OSA/31/2021

Appellant : The Official Liquidator

Respondent : The Official Liquidator

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR AND THE HONOURABLE MR. JUSTICE P. DHANABAL and C.M.P.No.847 of 2021 The Official Liquidator, High Court of Karnataka, (as Liquidator of M/s.Kirloskar Investment & Finance Ltd., (in liquidation)) Ministry of Corporate Affairs, Corporate Bhavan, No.26-27, 12th Floor, Raheja Tower, M.G.Road, Bengalur - 560 001. ... Appellant Vs. 1.The Official Liquidator, High Court, Madras, (as liquidator of M/s.Maruthi Synthetics

and Pharmaceuticals Ltd., (in liquidation)) Office of the Official Liquidator, High Court, Madras, 2nd Floor, Corporate Bhawan, No.29, Rajaji Salai, Chennai - 600 001.

Page 1 2.G.Raghavan Ex-Director, Maruthi Synthetics and Pharmaceuticals Ltd., (in liquidation) No.120, Flat D2, Sathya Sreya Apartments, L.B.Road, Thiruvanmiyur, Chennai - 600 041. ... Respondents

[R2 impleaded as party respondent vide Court order

dated 05.03.2021 in O.S.A.No.31 of 2021 and C.M.P.No.847 of 2021]

Original Side Appeal filed under Section 483 of the Companies Act, 1956 and Order XXXVI Rule 9 of Original Side Rules and Clause 15 of the Letters Patent against the order in C.A.No.88 of 2019 in C.P.No.163 of 2003, dismissing the application for condonation of delay in filing the Form-66 before the Official Liquidator, High Court, Madras, by order dated 20.12.2019.

For Appellant : Mr.C.S.K.Sathish For R1 : M/s.B.Ambili Deputy Official Liquidator
For R2 : Mr.Pawan Jhabakh Page 2

JUDGMENT

(Judgment was delivered by S.S. SUNDAR, J.)

This Original Side Appeal is directed against the order of the learned Single Judge, dated 20.12.2019, dismissing the Company Application in Comp.A.No.88 of 2019 in Comp.Petr.No.163 of 2003 to condone the delay of 3854 days in filing the Claim Form No.66 with the respondent and to direct the 1st respondent to accept the claim form and adjudicate the same on merits.

2. Brief facts that are necessary for the disposal of this Appeal are as follows : The appellant is a Company which is now under liquidation and the Official Liquidator of High Court of Karnataka is holding the assets of the appellant Company. The petition to condone the delay in filing Claim Form No.66 with the 1st respondent was dismissed because the appellant did not give sufficient cause for the inordinate delay of 3854 days.

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3. The bona fides of the application cannot be doubted as the Appeal itself is prosecuted by the Official Liquidator who is now in-charge of the liquidation. Learned counsel appearing for the appellant states that the claim of appellant is admitted and therefore, serious prejudice is likely to be caused to the appellant. The 1st respondent is the Official Liquidator of High Court of Madras who is in-charge of the 1st respondent Company which is also in liquidation. Though the 1st respondent originally stated that there is no amount available except a sum of Rs.3,000/-, it is admitted that the Company had leasehold rights over some of the valuable properties and therefore, it may be for the appellant Company to reap.

4. This Court finds that it would be appropriate to condone the delay in view of the peculiar facts established before this Court. The learned Single Judge dismissed the application for reasons which are not germane. Therefore, considering the peculiar facts and circumstances of the case, this Court is of the view that the learned Single Judge ought to have exercised her discretion in favour of the appellant whose official position should be

Page 4 considered to serve the ends of justice. 5. Therefore, this Original Side Appeal is allowed and the impugned

order is set aside and the delay is condoned. The 1st respondent is directed

to consider the claim of the appellant on merits. The appellant's claim shall be considered purely on merits subject to availability of funds. No costs. Consequently, connected miscellaneous petition is closed. (S.S.S.R., J.) (P.D.B., J.) 20.01.2025 mkn Internet : Yes Index : Yes / No Neutral Citation : Yes / No
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S.S. SUNDAR, J.

and

P. DHANABAL, J.

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