

**In Re: Sierra Micro Electronics Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/768993](http://sooperkanoon.com/768993)

**Court :** Rajasthan

**Decided On :** Nov-21-2003

**Reported in :** [2004]54SCL459(Raj)

**Judge :** S.K. Keshote, J.

**Acts :** Companies (Court) Rules, 1959 - Rules 9 and 177

**Appeal No. :** S.B. Company Misc. Application No. 161 of 2003 and S.B. Company Petition No. 17 of 1991

**Appellant :** In Re: Sierra Micro Electronics Ltd.

**Advocate for Def. :** B.K. Sharma and; B.C. Meena, Advs.

**Advocate for Pet/Ap. :** Kersi J. Mehta, Adv.

**Judgement :**

ORDER

**S.K. Keshote, J.**

1. Heard learned counsel for the parties on the admission of the application.
2. Admit. Shri B.C. Meena, Official Liquidator, accepts notices of the application.
3. On the request of the learned counsel for the parties the matter is taken up for final hearing. This is the application under Rule 177 read with Rule 9 of the

Companies (Court) Rules, 1959.

4. In the application the prayer has been made for a direction to the Official Liquidator to accept the claim after condoning the delay, if any, made in filing thereof and pass such orders as may be deemed just and equitable in the facts and circumstances of the present case.

5. Sierra Micro Electronics Limited was ordered to be wound up by this Court under order dated 8th of September, 1995 in Company Petition No. 17/1991.

6. The Company (in liquidation) failed to repay the dues of the financial institutions including the applicant. ICICI Bank Limited, as a result of which the financial institutions filed Original Application for recovery against the Company, (in liquidation) and its guarantors before the Debts Recovery Tribunal, Jaipur being Original Application No. 465/1997. On this OA, the learned Tribunal issued a certificate on 13th of July, 2000, in which the dues of the Applicant was adjudicated is of Rs. 2,72,62,878. The charged assets, inter alia, to the institution including the applicant, have been sold by the Official Liquidator of this Court. The successful bidders have deposited the bid amounts with the Official Liquidator.

7. The Official Liquidator invited claims vide advertisement dated 20-12-2001 and 8-12-2001, in the daily newspapers, namely, Rajasthan Patrika and Times of India, respectively. The applicant filed its claim before the Official Liquidator vide its letter bearing No. DS/5267 dated 22nd February, 2002. Vide letter dated 21-8-2002 bearing Ref. No. SME/ Claim/9/1313, the Official Liquidator acknowledged having received the said letter, but required the applicant to file the claim in the proper format within 15 days. He also desired that he wanted the delay, as he claimed, condoned by the Court. In the required format the applicant filed its claim on 29th of August, 2002, which has been acknowledged by him with its seal on the copy of the covering letter dated 27th of August, 2002 bearing the Ref. No. DS/1782.

8. The Official Liquidator sent the letters dated 24th of September, 2002 and 7th of October, 2003, bearing Nos. SME/Claim/ICICI/(9)/1578, and 1519 respectively, stating that the applicant has not filed the claims despite his letter dated 21st of August, 2002.

9. The learned counsel for the parties are in agreement that the claim had been submitted by the applicant. The delay made in filing thereof, in the facts of this case, deserves to be condoned, more so where it is a claim of the Secured Creditor and on the basis of a claim accepted by the DRT, Jaipur.

10. Accordingly, this application succeeds and the same is allowed. The delay made in filing of the claim is condoned. The Official Liquidator to adjudicate the claim of the applicant in accordance with law.

11. The application accordingly stands disposed of.

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