
(1937) 02 BOM CK 0003
In the Bombay High Court

Chhotalal Mansukhlal

APPELLANT

Vs

Someshwar Jivram and Another

RESPONDENT

Date of Decision : 10-02-1937

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 35
Companies Act, 1956 — Section 162

Citation : 173 Ind. Cas. 489

Hon'ble Judges : Tyabji, J; Barlee, J

Bench : Division Bench

Judgement

Tyabji, J.—This appeal arises out of the taxation of a bill of costs claimed by an Advocate practising in the mufatsal in respect of legal services rendered in connection with a petition for the compulsory winding up of a registered company, presented u/s 162, Companies Act. It is admitted that the Advocate is entitled to recover from his own client the fees that are claimed in the bill of costs; but it is said that certain items cannot be claimed as against other parties. Rule 767 of the Rules of the High Court of Bombay (Original Side), 1936 Edn, provides that attorneys and Pleaders are entitled to charge and to be allowed the fees set forth in Schedule II to the said rules (at p. 398). The rule is, however, subject to two provisions : the said fees shall be allowed (1) so far as the same are applicable, and (2) unless the Court shall otherwise specially direct. (The rule was amended by a Notification in the Bombay Government Gazette, dated February 20, 1936, but the amendments so made were made subsequent to the date of the proceedings with which we are concerned, and to the orders under appeal. I shall refer throughout to Rule 767 as it was before the Notification of February 20, 1936, that being the form in which the rule is applicable to the case before us.)

2. Under Rule 767, therefore, the costs of a petition for the compulsory winding up of a company in the mufassal have to be taxed (subject to the two provisions that I have stated) in accordance with the table of fees applicable to attorneys of the High Court of Bombay in its ordinary original civil jurisdiction. That table of

fees is appropriate to Bombay where the dual system prevails, under which attorneys have only a limited right of audience and have, in the majority of cases, necessarily to instruct Counsel. The table is not equally appropriate to the procedure in the mufafsal where the places both of attorneys and Counsel are taken by a single class of practitioners--the Advocates--and where the procedure and practice observed by the Court are otherwise less complex than in Bombay. In applying to Advocates practising in the mujassal the rules primarily intended for attorneys on the Original Side in Bombay, certain matters of principle have consequently to be first determined before the items of the bill of costs to which objection has been raised can be considered in detail.

3. On the Original Side of the Bombay High Court the costs incurred in respect of each proceeding resulting in an order of the Court (whether it is an order dealing with an interlocutory proceeding or whether the order is merely incidental to and forms a necessary part of the main proceeding), are dealt with by the Judge at the same time at which he makes the order. (Where work is done by an attorney which does not result in an order of the Court, a special application may be made for directions with respect to the costs. In making its order relating to the costs, the Court may exercise the jurisdiction saved in Rule 767 under which the Court may "otherwise specially direct," i.e., direct, that fees may be allowed to be charged on a basis other than that set forth and referred to in the said Schedule II Accordingly, when a Judge sitting on the Original Side of the High Court, in making an order, whether interlocutory or incidental, makes no reference in the order itself to the costs of the proceedings resulting in his order, it is reasonable to presume (1) that it was intended that there should be no order for the costs of those (interlocutory or incidental) proceedings, and 29 Bom. L.R. 1093 ; 103 Ind. Cas. 731; P.D. Shamdasani and Others Vs. Tata Industrial Bank Ltd., that the Court refused to exercise its discretion to direct that the fees should be on a scale other than that in the schedule. In the mufasal, the ordinary procedure and practice applicable to orders relating to costs are such that the Courts in the majority of cases do not give directions with reference to the costs of the proceedings leading up to each incidental order as it is made. The failure, therefore, by a mufassal Court to make any order with reference to the costs of an incidental proceeding which forms part of a more comprehensive litigation, may not carry with it any such implication that the Court has refused to exercise the discretion as to the scale of fees of that it is intended that the costs of that part of the proceeding should be borne by each of the parties; nor is there impliedly any decision that ultimately there will be no order that one of the parties shall recover it from the other--the implication may be either that the costs of the proceedings leading up to the incidental order are to form part of the costs of the proceedings as a whole: a result similar to that when an order is made in the High Court that the costs shall be costs in the main proceeding; or the Court may not have exercised its powers with reference to the costs as when in the High Court costs are reserved.

4. The case must, however, stand on a somewhat different footing where the

order in question is not an incidental order arising out of a proceeding forming part of the larger proceeding, but where there is a distinct interlocutory proceeding, even though it may be an offshoot of the larger proceeding. Such an interlocutory proceeding is not a necessary branch of the main litigation. It may or may not be made. It may be made quite frivolously and may be dismissed, even when the main proceeding is justified and successful. In the case of distinct interlocutory proceedings, therefore, the implication would not be the same as in the case of necessary incidental orders connected with the main proceeding. If there is no special order relating to a distinct interlocutory proceeding, it can hardly be presumed that the costs must be added to and must follow the costs of the main proceeding.

5. In the bill before us, however, there does not seem to be any important interlocutory proceeding referred to, the costs of which are contested. Items Nos. 93, 94 and 95 do, no doubt, refer to independent interlocutory proceedings. They refer to work done in connection with "Drawing a petition for inspection" (for which Rs. 5 are claimed); secondly to "Engrossing two fair copies thereof F. 3." (Re. 1-5-0 being charged); thirdly to "Attending the Court at Nadiad when the same was heard and granted by the Court and inspecting the account books, engaged the whole day." (In respect of the last, only Rs. 5 out-of-pocket charges are claimed). But no objection has been taken to these items. They involve only Rs. 11-5-0 in all. The distinction between interlocutory and necessary incidental orders must be kept in mind; but for the reasons that I have stated, the distinction is not material in dealing with the items objected to, as they are all claimed in respect of incidental proceedings. None of the items objected to refer to costs incurred in respect of distinct interlocutory proceedings.

6. Again, attorneys have only a limited right of audience in the High Court. When a matter is brought up in Chambers, attorneys (since they have the right of audience in Chambers) are not expected or allowed to instruct Counsel (except at the cost of their own clients or unless Counsel are certified by the Court). But when a Chamber matter is adjourned into Court (on the ground, e.g., that it is too complex to be dealt with in Chambers), attorneys having no right of audience in the Court find it necessary to instruct Counsel, and the charges for instructing Counsel and the fees payable to them are then necessarily allowed. There is in the mufassal no procedure like an adjournment from Chambers into Court. This particular mode of discriminating (1) matters that are comparatively simple and may be dealt with in Chambers, from (2) matters that are more complicated and must be adjourned into Court and in respect of which Counsel must be instructed--is absent.

7. Thirdly, in the High Court on the one hand, the same Judge does not permanently sit in Chambers, and on the other the Taxing Master in Bombay is a special permanent officer whose function is in many cases restricted to interpreting and giving effect to the orders relating to costs made by the particular Judge by whom the orders relating to costs were made. When in such

cases there is an appeal from the Taxing Master to the sitting Judge in Chambers, the subject of appeal is whether the Taxing Master has correctly interpreted and given proper effect to the original orders relating to costs made by the Court dealing with the proceedings at the time when the particular orders were made. In the mufassal, the order for costs is ordinarily one order converting the costs of the whole of the proceedings taken as one comprehensive transaction, whereas in the High Court the costs incurred for each separate order are dealt with severally. The result is that at the time of the taxation of costs, the Taxing Officer in the mufassal has not before him such detailed directions from the Court as the Taxing Master in the High Court has, relating either (a) to the incidence of costs of each order (viz., whether the party is to bear the costs relating to any part of the proceedings himself or they are to be borne by the other side), or (6) declaring or refusing to declare that certain matters must be deemed by the Taxing Officer to form part of the services properly rendered by the practitioner in respect of the proceedings, and that, therefore, fair remuneration for rendering such services must form part of the costs of the said proceedings, or (e) giving special directions with reference to the scale on which he must tax and allow fees for specified professional services. The District Judge who deals with and hears objections against the taxation of the bill of costs may more often be the same as the Judge who had dealt with the original proceeding than would, in the ordinary course, be the case in the High Court.

8. The simpler practice followed in the mufassal has in the present case resulted in certain matters being overlooked. The functions of the District Judge when hearing objections from the Taxing Officer have not been discriminated from his functions at the earlier stage when he made the incidental or interlocutory orders, the costs of the part of the proceedings leading up to which orders had subsequently to be taxed. The District Judge when he heard objections from the Taxing Officer was exercising a different function from that which he exercised while making the incidental orders. When he was making the incidental or interlocutory order he had a two-fold jurisdiction (a) u/s 35, Civil Procedure Code, the discretion to determine by whom and out of what property and to what extent the costs were to be paid, and to give all necessary directions for the purpose; and (6) he had also the jurisdiction under Rule 767 of the Rules of the Bombay High Court to "specially direct" that the practitioner shall be entitled to charge and be allowed the fees on a scale other than that set forth in the said Schedule II. When, however, the District Judge was sitting in appeal to hear objection from the Taxing Officer, he had merely to determine whether the Taxing Officer had rightly taxed the costs, in accordance with the rules and practice and the orders that the Court had already made. As the Taxing Officer himself had not the two-fold jurisdiction under the Civil Procedure Code, Section 35, and under the High Court Rules, Rule 767, to which I have just referred, the District Judge sitting in appeal over the Taxing Officer had no similar jurisdiction at that stage. Both the Taxing Officer and the District Judge seem to have omitted to bear this distinction in mind and to have acted as though the

proceedings had not consisted merely of the taxation of costs but as if the powers u/s 35 and Rule 767 were exercisable at the time of taxation; and as though they were exercisable not only by the District Judge on the proper occasion but could be exercised by the Taxing Officer at the time of the taxation.

9. Taking advantage of the oversight to which I have referred, and of other matters in which the mufassal practice differs from that of the High Court, it was pressed upon us that (1) where no orders for costs were actually made by the Court with reference to any part of the proceeding leading up to any orders, interlocutory or incidental, the costs must be borne by each party; (2) that where at the time when any orders were made no special directions were obtained directing that under Rule 767 the costs of the proceedings resulting in the particular order be taxed otherwise than in accordance with the scale in the said Schedule II, it must be taken that the Court had refused to give any special directions under Rule 767; and (1902) 2 K.B. 184 ; 71 L.J.K.B. 717 ; 87 L.T. 320 ; 5 Q.W.R. 642 ; 18 T.L.R. 653 that as there was no order for adjournment into Court and no Counsel were engaged, no fees became due in respect of work which is remunerated on the basis of Counsel being properly instructed. The practice on the Original Side cannot, however, be applied in the mufassal in such a rigorous manner. The position must be considered in view of the events and procedure that have actually taken place. Rule 564 is in the following terms:

Where in the opinion of the Taxing Master the maximum fee allowed by these rules is insufficient or a fee ought to be allowed for any matter not provided for in the rules or table of fees, he may upon the application of a party refer the matter to the Court stating what amount in his judgment ought to be allowed and by whom the same ought to be paid, and the Court shall make such order thereon as to the allowance of the whole or any part of the amount proposed by the Taxing Master as it shall think fit.

10. It may happen in the mufassal that the orders of the Court are not sufficiently explicit to determine such questions and that the Court's directions u/s 35 and Rule 767 may be considered necessary by the Taxing Officer. He may reasonably think (in view of the practice prevailing in the mufassal) that such directions were not given by mere oversight. In such cases, the proper course for the Taxing Officer would be to give the parties an opportunity of obtaining such directions or orders from the Court before the costs in question are taxed. For preventing delay, the Taxing Officer may in proper cases proceed with the taxation leaving the matter open or may give an alternative decision. This would enable the District Judge to deal with the matter ultimately, not only as in appeal from the Taxing Officer but to hear the application (although belated) for directions u/s 35 and Rule 767. In the present case, though the proper procedure with reference to the exercise of the discretion u/s 35 and Rule 767 has not been followed, no substantial injustice seems to have resulted. It appears just and reasonable to overlook the omissions or errors in procedure and to consider the matters for decision in substance. Before doing so, however, it is necessary to

observe upon its being highly advisable in proceedings, the costs of which have to be taxed in accordance with the Original Side scale, that the mufassal Courts should make special orders and give specific directions relating to the costs of each order; and that they should exercise the two fold jurisdiction u/s 35, Civil Procedure Code, and Rule 767 of the High Court at the time when the particular order (whether incidental to the proceedings or necessitated by an interlocutory application; is being made. The procedure relating to orders about costs followed on the Original Side of the High Court ought to be kept in mind by the Advocates as well as the Courts, as the duty lies upon the parties and their Advocates to apply for directions and orders relating to costs; and to make such applications at the proper time. The fees and charges to be allowed to attorneys for attending any summons or other application at the Judge's Chambers are laid down in Schedule II, p. 398 of the Rules of 1936. There are two alternative provisions: (1) that the charges for attending any summons or other application at the Judge's Chambers shall be Rs. 10 per hour, or (2):

where from the length of the attendance or the difficulty of the case the Judge shall think this fee an insufficient remuneration for services performed, such fee as the Judge may allow to the attorneys by a memorandum in, writing expressly made for that purpose and signed by the Judge specifying distinctly the ground of such allowance.

11. No such memorandum was made by the Judge at the time of making the order for the compulsory winding up. The schedule does not, however, preclude such memorandum being made subsequently. Accordingly in *In re Indore Malwa United Mills, Mothuradas Conjee Mattani* (unreported), B.J. Wadia, J., sitting in Chambers on October 14, 1935, ordered the Taxing Master to allow certain specified charges separately in respect of the hearing of the petition and of the several interlocutory applications thereon and on the Chamber summons and other petitions in *In re Indore Malwa Mills* made from time to time and other proceedings before the Commissioner, whether the costs thereof had been by previous orders provided or not. Moreover, in the mufassal the absence of such a memorandum does not for the reasons stated imply that the Judge has exercised his discretion and refused to make it. I have already referred to the fact that the distinction between proceedings in Chambers and proceedings adjourned to Court has no application in the mufassal Courts. In the High Court, when the matter is adjourned into Court, attorneys have no right of audience and it becomes necessary to instruct Counsel. Advocates have on the other hand plenary audience in the mufssal Courts. These circumstances were made the basis of an argument that though a matter may be such that if it had been in the High Court it would have been adjourned into Court (e.g. a complicated and important matter relating to the winding up of a company such as the present), yet no order can be made in the mufassal that it should be adjourned into Court; that therefore all those items in the table of charges that would in terms be applicable only when the matter is adjourned into Court must be left out of consideration when the costs of proceedings before a mufassal Court are being

taxed. But obviously the words in Rule 767 "so far as the same are applicable" govern the rule that "the fees must be allowed as set fourth and referred to in Schedule 11" at p. 398. It is not reasonable to apply the schedule in such a manner and for such reasons as to deprive parties of costs which they have necessarily and properly to incur. Under Rule 559 all such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence and the attendance of witnesses are to be allowed.

12. Another head of arguments referred to that large and important item in taxation which consists of "general instruction charges." The form in which such charges are dealt with is to bring them under the head of fees due to attorneys for the work done by them in order that they may prepare Counsel for facing the facts and the law before the Court. Instruction charges include the remuneration that the Solicitor is entitled to charge for collecting evidence in preparing the case for the final hearing and similar work : Gorakhram v. Pirozshah 57 B 570 ; 142 Ind. Cas. 353; AIR 1933 Bom 92 ; 35 Bom. L.R. 93; Ind. Rul. (1933) Bom. 215; 57 B.582 and P.D. Shamdasani and Others Vs. Tata Industrial Bank Ltd., . It was argued that there can be no equivalent charges allowed to Advocates in the mufassal since they need never instruct Counsel. But though the Advocate in the mufassal does not instruct Counsel, he has to instruct himself, he has to prepare himself for performing the same duties that Counsel would perform in the High Court. The Advocate has to get acquainted with the law and collect the authorities on the subject. He may not be entitled to remuneration for this work on the same scale as Counsel, but since Counsel's fees are saved, he must have fair remuneration for work done by him. The labour and work imposed upon the Advocate are in one sense less than the labour and work of the attorney instructing Counsel, but such labour and work are no less necessary and important in the one instance than in the other; and there seems no reason or principle why Advocates should be deprived of fair remuneration for work necessarily undertaken which would have to be done in the High Court through Counsel. Instruction charges were specifically ordered to be allowed in the order of B.J. Wadia, J. dated October 14, 1935 to which I have already referred, and Kania, J. on January 29, 1934, in I.C. 32 of 1933 (unreported) observed:

I do not see any reason why in winding up matters reasonable instruction charges should not be allowed on taxation

and ordered that they should be allowed. No doubt the fees for work, items relating to which are conveniently grouped together under the head of instruction charges must be carefully considered under each item of work so grouped together. The fee claimed must be examined item by item. Each item must be adapted to the conditions in the mufassal. This was, in our opinion, substantially though not formally done in the judgment under appeal. In our opinion, therefore, the objection to the items regarding instructions, the most important of which is Item No. 166, cannot succeed on the general ground that charges which are usually grouped together under the heading "instruction charges"

cannot at all be allowed in the mufassal. Item No. 166 must, however, be examined in respect of some of its details to which objections have been taken, objections which are contended to be substantial and not answered by the considerations with which I have already dealt. The item is in the following terms:

Work done.--Instructions for brief for the case including a perusal of the Memorandum and Articles of Association of the company and account books and other papers, and attendances on the client and his man and the Court, as mentioned above, and thereafter from time to time: and holding consultations with the supporting contributories" Pleaders and getting other copies, searching law authorities, and doing all other correspondence, perusals, and attendance and work not herein otherwise charged, from the beginning to date.

13. A fee of Rs. 1,500 was originally claimed. The item is framed in a form of words appropriate to an attorney briefing Counsel, but not to an Advocate himself doing the work of Counsel. The words "instructions for brief" are manifestly inappropriate. This error arises from a failure to adapt the form prevalent in Bombay (where attorneys have to instruct Counsel and prepare the necessary brief, in respect of matters in regard to which attorneys have no right of audience) to the practice in the mufassal where Counsel need not be instructed (Advocates having plenary right of audience in the mufassal). This objection is one merely of form and not of substance and is covered by what I have already said. Other exceptions are, however, taken to the item. First, with reference to charges for looking up the law. Though the schedule provides for charges for "attendance within the office and out of office, within the Fort and outside the Fort" (Table of Fees, p. 414), attorneys in the High Court are not, as a rule, allowed to charge any fees for looking up the law. That is taken to be the duty of Counsel, and as Counsel's fees are separately taxed and allowed in cases in which they are necessarily or properly instructed, the work done in looking up the law is duly remunerated under the item relating to Counsel's fees. The Advocate in the mufassal is competent to do the work done by Counsel in the High Court, including the looking up of the law. The items of work done by the Advocate in looking up the law may consequently in proper cases be taxed in the mufassal on principles similar to those on which such items are taxed in Bombay when they are properly included in the fees paid to Counsel. They are allowed in Bombay if Counsel are certified by the Court as having been properly instructed to appear, though the attorney himself had the right of audience on the occasion. It is implied that such simple matters of law as can be dealt with by attorneys without employing Counsel are not to be separately charged for. In the mufassal, special directions would ordinarily have to be applied for at the proper time, so as to indicate that in the opinion of the Court the questions of law involved were of such a nature and complexity that the Advocate ought to be allowed special remuneration for it; that the services he was rendering were such that Counsel may properly have been briefed to render them in the High Court. In the present case, the learned Judge has clearly expressed this opinion though not for the specific purpose of allowing any fees for looking up the law. Though there has

been a failure to observe the strict practice, there seems to be no substantial ground for allowing this objection to prevail.

14. Counsel for the appellant objected secondly that the particulars and details given in item No. 166 are not sufficient. The fees claimed under the item of instructions were found, however, in the course of the discussion before us, to be in respect of work which, taken piece by piece, can be brought under the various heads of Schedule II. Item No. 166 taken by itself is, it must be admitted, deficient in particulars. But in fact item No. 166 must be supplemented by several other items of the bill, such as items numbered 39, 78, 92, 13V which refer to work done for which remuneration was due, but which has not been charged for separately. These items are for attendances on the client, or his representative, or other contributories who supported the petition for compulsory winding up, or the liquidator, or other officers of the Court, or for receiving instructions for the hearing, or for drafting affidavits. Moreover, the absence of such particulars as ought ordinarily to be included in the item for instructions, may be overlooked if there is other evidence on the basis of which the Taxing Officer or the Judge in Chambers can form a proper judgment as regards the amount to be allowed. *P.D. Shamdasani and Others Vs. Tata Industrial Bank Ltd.*, .

15. We have carefully considered in detail the allowance of Rs. 1,200 in respect of instruction charges which must include remuneration allowable for the work to which I have referred, such as getting together the evidence, preparing himself with the facts of the case and the law and looking up the authorities for being able to address the Court. This is a species of work going beyond mere attendance in Court with which other items, to some of which I have referred, deal. The items making up what have been called the instruction charges are not open to any of the objections taken before us. None of the items refer to work which has been already charged for under other items, or to work which the Advocate would be expected to do without being remunerated for it, or to work remuneration for which ought to fall on his own client and which could not be claimed from the other side. We have taken all these matters into consideration, bearing in mind the remarks with reference to the allowance of Rs. 1,200 for the general instruction charges made by Taxing Officer. Though some of these remarks were made by the Taxing Officer under an error as to his proper function in taxing the bill, they were adopted by the District Judge. We are of opinion that the allowance represents fair remuneration for professional work properly done; and that scale of fees adopted as its basis corresponds to that in the schedule. The allowance of Rs. 1,200 will not, therefore, be interfered with.

16. Another set of items objected to has reference to the scale of fees that the Advocate is entitled to charge for attendance in the Court at Nadiad. The Advocate, who appeared for the petitioner at Nadiad in the present proceedings, was not an Advocate habitually practising in the Nadiad Court. He usually practises at Ahmedabad. It was argued by Mr. Jayakar that for this reason his attendance in the Nadiad Court must be put on the same footing as when a case

is proceeding in the High Court, and an attorney of the Bombay High Court, properly in charge of the proceedings, attends beyond the local jurisdiction of the High Court. That argument, in our opinion, cannot be accepted. The attendance was not beyond the jurisdiction of the Court in which the proceedings were going on. It is not suggested that no Advocate who was competent to deal with the matter was available within the jurisdiction of the Nadiad Court. No doubt, a practitioner was in fact brought from beyond the jurisdiction of the Court, but that fact can have no bearing on the applicability of the item in the table. The attendance at Nadiad of an Advocate from Ahmedabad is not shown to have been necessitated by the nature of the questions involved, or because the Ahmedabad Advocate alone was acquainted with the facts and questions, or by either similar circumstances. The additional expense incurred may more reasonably be attributed to over-caution: see Rule 562. Reliance was placed on *MacIver and Co. Ltd. v. Tata Steamers, Limited* (1902) 2 K.B. 184 ; 71 L.J.K.B. 717 ; 87 L.T. 320 ; 5 Q.W.R. 642 ; 18 T.L.R. 653 where the plaintiff's Attorney from Liverpool attended at the examination of a witness whose evidence was essential to the plaintiff's case, and who was examined in London before the trial of the action. The Attorney attended at the examination for the purpose of instructing Counsel. The rule governing the case in England gave complete discretion to the Taxing Master, it being provided that the Taxing Master shall allow all such costs, charges and expenses, as shall appear to him to have been necessary or proper for the attainment of justice; and it was held that the discretion had been exercised reasonably and within the terms of the rule. In the table by which the present proceedings are governed, there is no provision giving to the Taxing Officer any such wide discretion. On the contrary, the fees for attendance are specifically laid down. There being a fixed fee for such attendance, the Taxing Officer could not tax the costs on any other scale. The Taxing Officer in the present case did not make a reference to the Court under Rule 564. There are no special directions given by the Court under Rule 767, nor are any reasons pointed out how such directions could have been supported, assuming that we could have taken such reasons into account at the present stage. The fee has apparently been fixed in entire oversight of the provisions of the table. For attending the Court at Nadiad, under item No. 55, Rs. 12 J were claimed. The particulars given are:

Work done.--Attending the Court at Nadiad when after hearing the petitioner and the Advocate, the Court admitted the petition and ordered to be advertised and made certain per-emptory provisional orders.

17. Rupees 100 were allowed by the Taxing Officer, and were reduced to Rs. 50 by the learned Judge. This item of claim must, however, be governed, for reasons that I have just given, by item No. 40 of the Table at page 416 of the Rules of 1936, and no more than Rs. 15 ought to be allowed in respect of this item. As regards items Nos. 125, 137, 149 and 155 for similar reasons, Rs. 65 will be allowed per day. taking the day as representing six hours" work. Item No. 157 of the bill is in these terms:

Work done.--Attending the Court at Nadiad when judgment was delivered and certain further orders were passed. Perusing the judgment and going to Umreth serving copies of the order on the Official Liquidator and attending the taking of the charge of the company's affairs.

18. Rupees 200 are claimed. For attendance at Nadiad only Rs. 15 can be allowed. But item No. 157 is composite. It refers also to perusing judgment, going to Umreth, serving copies of the order on the Official Liquidator and attending the taking of the charge of the company's affairs. The fees for working under these heads must be taken with the fees for work referred to in item No. 03. Taking together all the work mentioned in items Nos. 63 and 157, it seems to us that after allowing Rs. 15 only as the fee for attendance at Nadiad, nothing has been shown on the basis of which we can hold that the total sum allowed was either improper or against any of the provisions of the rules, so that these two item a muse stand. Items Nos. 114, 115, 162 and 31 A have also been objected to on beualf of the appellant. The Advocate was, however, entitled to take copies of the balance-sheets and minute books for his own use; he could not be expected to prepare himself for the case without such copies. He must, therefore, be allowed the usual copying charges. Several of the other items objected to are either small and negligible or are already covered by the considerations to which I have referred. We see no reason to interfere. In the result, therefore, there is a reduction of Rs. 275 altogether in the allowance for costs. In the circumstances we think that respondent No. 1 ought to have the costs of this appeal. Respondent No. 2 who has been served and who appears separately will have Rs. 50 as costs. Costs to be taxed according to the Original Side scale by the Taxing Master. The matter may, if necessary, be mentioned to the Court after ascertaining the practice as to the taxation on the Original Side basis of a bill of costs on the appellate side.

19. Barlee, J.--I agree.