

(2005) 02 RAJ CK 0003

In the Rajasthan High Court

Case No : Company Application No. 4 of 2005 in SB Company Petition No. 3 of 1992

In Re: Spintex Tubes and Cons Ltd. (In Liquidation)

Date of Decision : 04-02-2005

Acts Referred:

Companies Act, 1956 — Section 530(1)

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 11

Citation : (2005) 64 SCL 194

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Deepak Goyal, for the Appellant; S.N. Kumawat, for the Respondent

Judgement

S.K. Keshote, J.—Heard learned Counsel for the applicant on the admission of the matter.

2. Admit, Shri S.N. Kumawat, the Standing Counsel for the Official Liquidator, is present in the court; he accepts notice on behalf of the Official Liquidator, hence notice needs not to serve on the Official Liquidator.

3. Looking to the nature of the case the application is taken up for final hearing.

4. Heard learned Counsel for the parties on the merits of the matter.

5. M/s. Spintex Tubes and Cons Limited (In Liquidation) has been ordered to be wound up by this Court under the order dated 27-3-1992 passed in S.B. Company Petition No. 3/1992.

6. The applicant has claim/debt of Rs. 1,36,762 on the Company (in liquidation) towards EPF Contribution etc. under the provisions of Employees Provident Funds & Miscellaneous Provisions Act, 1952 (for short, "the Act, 1952"). It is stated to be a preferential creditor under the provisions of Section 11 of the Act, 1952 and u/s 530(1)(f) of the Companies Act, 1956.

7. The Official Liquidator invited the claims and the last date for submission thereof was 17-4-1995. It is submitted that the applicant could not know about

this notice of invitation of the claims. Only on 5-9-1997 the applicant came to know from the Assistant Registrar of the Companies, Rajasthan, Jaipur that the company in question has been ordered to be wound-up by this Court and the claim is to be preferred before the Official Liquidator. The applicant sent its claim by post on 10-11-1997 but it received undelivered. The petitioner submitted its claim with the Official Liquidator under the letter dated 25-10-2002. The Official Liquidator informed the applicant that the claim is not within limitation and unless the delay made in filing thereof is condoned by the court it cannot be registered and adjudicated upon, hence this application.

8. Having heard learned Counsel for the parties and going through the contents of the application and keeping in view the fact that the claim pertains to the employees' provident fund contribution etc. that is for the benefit of the employees, the delay made in filing of the claim by the claimant before the Official Liquidator deserves condonation and accordingly the same is condoned. The Official Liquidator to register the claim of the applicant and adjudicate upon it in accordance with the law.

9. The application accordingly stands disposed of.