
(2015) 08 MAD CK 0089

In the Madras High Court

Case No : Comp. Appln. No. 882 of 2015 in Comp. Petn. No. 223 of 2009

K. Jayaraj

APPELLANT

Vs

Madras Lamps (P) Ltd.

RESPONDENT

Date of Decision : 18-08-2015

Acts Referred:

Citation : (2015) 325 ELT 878

Hon'ble Judges : Pushpa Sathyanarayana, J.

Bench : Single Bench

Judgement

Pushpa Sathyanarayana, J.—"This application is filed by the Official Liquidator seeking the following reliefs:--

(a) to stay the interim order of the Hon"ble Customs, Excise & Service Tax Appellate Tribunal dated 9-6-2015 No. 137 of 2015 in Application No. E/S/18/2010 in E/28/2010 directing the Official Liquidator to make payment of Excise duty of Rs. 1,46,06,871/-; and

(b) to dismiss the appeal proceedings pending before the Hon"ble Customs, Excise & Service Tax Appellate Tribunal in Application No. E/S/18/2010 in E/28/2010 or otherwise direct to transfer the said proceedings before this Hon"ble Court for disposal.

The learned Official Liquidator would submit that after the order of winding up of the company, the Official Liquidator as provisional Liquidator of the company in liquidation has taken possession of the assets and effects of the company and realised a sum of Rs. 40,50,000/- through the sale of movable assets and Rs. 1,40,00,000/- through the sale of immovable assets of the company in liquidation. In response to the advertisement calling for claims, the Official Liquidator has received 74 claims from workmen, one claim from secured creditor, one claim from Central Excise, Chennai, one ordinary claim from M/s. Adhithya Packers, Gummidipoondi and one ordinary claim from M/s. Hind Lamps Limited, Uttar Pradesh.

2. The Official Liquidator would further submit that prior to winding up, the respondent/Central Excise has initiated proceedings against the company and its erstwhile Managing Director Mr. A. Ganesh and passed an order directing the company to pay a sum of Rs. 1,46,06,871/- towards Central Excise Duty, against which an appeal was also filed and in the said appeal, the Tribunal has passed an interim order directing the Official Liquidator to make the payment within two months and adjourned the matter to 18-8-2015 for reporting compliance. Against the said order of Tribunal, an appeal has been preferred by the Official Liquidator before this Court. In the above circumstances, this application is filed.

3. Heard the learned Official Liquidator and perused the materials available on record.

4. As stated by the learned Official Liquidator, the Official Liquidator has got no power to comply with the orders of the Tribunal and he can only act with explicit permission from this Court. Moreover, the claims of workmen and the secured creditors have overriding preference over other claims in terms of Section 529A of the Companies Act, 1956 and the same have to be settled in priority.

5. In such circumstances, there shall be an order of interim stay of the order of the Hon"ble Customs, Excise & Service Tax Appellate Tribunal dated 9-6-2015 for a period of two weeks. Private notice to the respondent returnable in two weeks is also ordered." WITNESS. The Hon"ble Thiru SANJAY KISHAN KAUL. The Chief Justice of Madras High Court, aforesaid this the 18th day of August, 2015.