(2013) 03 CAL CK 0021

In the Calcutta High Court

Case No : C.A. No. 98 of 2013 and C.P. No. 414 of 2003

Kayan Container (P) Ltd. @ Kayan Udyog Ltd. APPELLANT

Vs

Official Liquidator, High Court RESPONDENT

Date of Decision : 05-03-2013

Acts Referred:

Citation : (2013) 298 ELT 384

Hon'ble Judges : Sanjib Banerjee, J

Bench : Single Bench

Advocate : K.K. Maiti, for the Appellant;

Judgement

Sanjib Banerjee, J.—This is a belated application by the Central Excise Authorities protesting the official liquidator''s decision to accept the Excise Authorities'' claim to the extent of Rs. 10 lakh and reject the same to the extent of Rs. 39 lakh. Several events have overtaken this application. The official liquidator has obtained orders for disbursement of the funds available to the secured creditors and others entitled to receive payments u/s 529A of the Companies Act, 1956. The official liquidator says that only a part dues of the secured creditors has been paid and the workers have been paid to the extent of 70% of their admitted claims. The official liquidator has a further sum of about Rs. 7 lakh available which may not be enough even to meet the payment obligations to the creditors covered by Section 529A of the Act.

2. Even though the Excise Authorities are preferred creditors, but they are covered by Section 530 of the Act and stand in queue after the claims of the creditors covered by Section 529A of the Act are paid. Since all the assets of the company in liquidation have been sold, no useful purpose would be served in receiving this application for further consideration.

3. Accordingly, CA No. 98 of 2013 is disposed of by requiring the official liquidator to make payment of the admitted claim of the Excise Authorities if there is any money left after discharging the claims of the creditors of the

company in liquidation covered by Section 529A of the Act.

4. There will be no order as to costs. Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

