
(1999) 08 P&H CK 0116

In the Punjab And Haryana At Chandigarh

Case No : C.A. No. 650 of 1998 in C.P. No. 212 of 1997

State Bank of Patiala

APPELLANT

Vs

Chhatar Extractions Ltd.

RESPONDENT

Date of Decision : 17-08-1999

Acts Referred:

Companies Act, 1956 — Section 446, 454

Citation : (1999) 98 CompCas 129

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : H.N. Mehtani, for the Appellant; H.S. Bawa, for the Respondent

Judgement

V.S. Aggarwal, J.—The State Bank of Patiala has filed the present application u/s 446 of the Companies Act, 1956, seeking leave to proceed with the application filed u/s 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, i.e., for recovery of Rs. 6,77,75,377 before the Debt Recovery Tribunal, Jaipur.

2. The relevant facts are that the petitioner-bank has filed the application for recovery of the above said amount from the respondents before the Debt Recovery Tribunal, Jaipur. During the pendency of the same on the recommendations of the Board for Industrial and Financial Reconstruction, this court ordered winding up of respondent No. 1 - Chhatar Extractions Ltd. The official liquidator was appointed as the liquidator. The petitioner's claim is that the loan was advanced to respondent No. 1 against hypothecation of raw material, i.e., rice bran, soyabean, etc. The petitioner has kept a second pari passu charge on the land, building, plant and machinery for the present and future of respondent No. 1. It is prayed that the petitioner may be allowed to continue its proceedings before the Debt Recovery Tribunal, Jaipur.

3. Notice was issued to the official liquidator who submitted the reply on behalf of respondent No. 1. He has pointed out that ex-directors of the company have

not yet filed the statement of affairs of the company. Even notice has been issued, u/s 454 of the Companies Act to the ex-directors. It has no objection to granting of the permission but it is prayed that the liquidator may be allowed to contest the claim. Notice was issued to the other respondents but there was no appearance on behalf of respondents Nos. 2 and 3.

4. Perusal of the reply submitted by the official liquidator indicates that the ex-directors of respondent No. 1-company which is under liquidation are not caring to file the statement of affairs of the company. The claim of the petitioner is pending before the Debt Recovery Tribunal, Jaipur. When such a claim is pending and proceedings by the liquidator are likely to take a long time, there is no ground to disallow the application.

5. Accordingly, the petitioner is granted leave to continue with the proceedings before the Debts Recovery Tribunal, Jaipur, for recovery of the amount. But this is subject to the following conditions :

(i) The official liquidator shall have a right, if deemed proper to contest the proceedings. The petitioner will deposit Rs. 20,000 as expenses for the official liquidator.

(ii) This is without prejudice to the rights of the respondent to take other legal steps in accordance with law.

(iii) No execution shall take place before the Debt Recovery Tribunal without the permission of this court.