

(2005) 01 RAJ CK 0060

In the Rajasthan High Court

Case No : Company Application No. 50 of 2004 in Company Petition No. 10 of 1980

Swadeshi Polytex Ltd.

APPELLANT

Vs

Jaipur Spinning and Weaving Mills Ltd.

RESPONDENT

Date of Decision : 28-01-2005

Acts Referred:

Companies (Court) Rules, 1959 — Rule 177

Citation : (2005) 127 CompCas 235 : (2005) 6 CompLJ 448 : (2006) 66 SCL 428

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

Bench : Single Bench

Advocate : A.S. Khangarot, for the Appellant; Amod Kasliwal, for the Respondent

Final Decision : Allowed

Judgement

S.K. Keshote, J.—Heard learned counsel for the parties and perused the entire record of the application. Reply to the application has not been filed by the official liquidator.

2. This is an application by the Employees' Sate Insurance Corporation (for short, "the Corporation") under Rule 177 of the Companies (Court) Rules, 1959 (hereinafter shall be referred to as "the Rules, 1959"), for condonation of the delay made in filing of the claim.

3. Claims were invited by the official liquidator from the creditors and the last date for submission of proof of debt of the claims of every class of creditors was February 15, 1985.

4. The affidavit of proof of debt was submitted by the applicant on June 30, 1984, i.e., much before the invitation date but it was not duly affirmed by the notary public or the oath Commissioner. This fact came to the notice of the applicant when the letter dated July 12, 1991, issued by the official liquidator, was received. The file was sent to the advocate J.P. Gupta for doing the needful but the advocate kept the file with him from 1991 to 1993. The official liquidator

vide its letter dated July 6, 1993, asked the applicant to submit duly affirmed affidavit and further advised it to submit an application for condonation of delay. Advocate J. P. Gupta could not proceed in the matter on account of his illness.

5. Taking into consideration the facts of the case I am satisfied that the delay occurred in filing of the claim deserves condonation. That apart it is a claim by the Employees' State Insurance Corporation, a statutory Corporation and pertains to the benefit of the employees and in case it is rejected on the ground of limitation it will cause injustice to the poor employees.

6. As a result of the aforesaid discussion the application succeeds and the same is allowed. The delay made in filing of the claim is condoned. The official liquidator is directed to register the claim of the petitioner and adjudicate the same in accordance with law.