

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CAPP No. 9 of 2017

Date of Decision: 01.05.2019

LIFE INSURANCE CORPORATION OF INDIA

...Petitioner

Vs.

THE OFFICIAL LIQUIDATOR

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gaurav Chopra, Advocate
for the appellant.

Mr. Akshay Kumar Jindal, Advocate
for the Official Liquidator.

RAJIV NARAIN RAINA, J. (Oral)

On hearing Mr. Chopra, learned counsel for the appellant, there is hardly any doubt that the counsel for the Life Insurance Corporation of India Mr. Brij has led the Corporation down in submitting a proof of debt application before the Official Liquidator so that his case could be processed and the name of the Corporation be put on the list of creditors. There is sufficient evidence on record that the proof of debt affidavit was notarized on 10.08.2009 and papers were remitted to Mr. X, Advocate for taking steps before the Official Liquidator to recover the amounts from the assets of the Company in liquidation. By a communication of Mr. X, Advocate to the Manager (L&HPF), Life Insurance Corporation of India, Chandigarh he had categorically given out that he made several visits to the office of the

Official Liquidator “after filing the papers sent by the CO but they were not traceable”. This letter has been placed at Annex. A/18 at page 54 of the paper book with the endorsement that it was received on 27.12.2012 in the office of the appellant.

This has resulted in delay for which reason the Official Liquidator has refused to process the claim and accordingly this appeal has been filed on behalf of the appellant-LIC under Rule 164 of the Company (Court) Rules, 1959 for setting aside the impugned order dated 14.09.2007 of Official Liquidator and for condoning the delay in lodging the claim in the office of the Official Liquidator. It is accompanied by another application bearing CMA No. 34 of 2017 in the present Company Appeal No. 9 of 2017 wherein condonation of delay of 13 days in instituting an appeal has been prayed for.

Having heard learned counsel for the parties, the application under Section 5 of the Limitation Act, 1963 read with appropriate rules is condoned.

Learned counsel for the parties have been heard in the main appeal. For the reasons which were beyond the control of LIC despite it having taken steps to lodge its claim as unsecured creditors of the company in liquidation, they were kept in the dark by Mr. X, Advocate and, therefore, no fault can be attributed to the Corporation in presenting the claim within the time prescribed in the advertisement published on 24.01.2008 in which the last date for submission of claims

was 15.03.2008. For this reason, the appeal is allowed. LIC would file its claim within one week from the date of receipt of certified copy of order in the office of Official Liquidator.

Official Liquidator would take appropriate steps to remit the proof of debt application to the Chartered Accountant other than the Chartered Accountant with whom disputes are stated to be pending between him and the Official Liquidator regarding the fees of the Chartered Accountant. On receipt of report, the claim of the appellant be processed in accordance with law.

With these observations and directions, the appeal stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

01.05.2019

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*