

In Re: Hifazat Chemicals Ltd. (in Liquidation)
 Gujarat Industrial Investment Corporation Ltd.

Court: Calcutta High Court

Date of Decision: Aug. 16, 2011

Acts Referred: Companies (Court) Rules, 1959 – Rule 176, 176(1)

Citation: (2011) 167 CompCas 236

Hon'ble Judges: I.P. Mukerji, J

Bench: Single Bench

Advocate: P.C. Sen, with Amitava Das and A. Mitra for the Petitioner, for the Appellant; A.K. Dhandhanian, Nimesh Mishra for the Karnataka Bank and Ms. R. Sikdar and Soumen Bose for the official liquidator, for the Respondent

Judgement

I.P. Mukerji, J.

This is an application filed by the Gujarat Industrial Investment Corporation Ltd. They are aggrieved by some of the claims, as admitted by the official liquidator.

2. Their main grievance is against the admission of the claim of Rs. 6,67,40,000 of the Karnataka Bank Ltd. The remark against admission of such

claim is "preferential".

3. According to the applicant only about Rs. 9 lakhs is secured by way of first charge. The rest cannot be considered as preferential in that sense.

This is disputed by Mr. A. K. Dhandhanian, learned advocate appearing for the Karnataka Bank Ltd. The total amount admitted as against the

Karnataka Bank Ltd., is also disputed by the applicant.

4. Their next attack is against admission of claim of the workers of Rs. 1,09,09,675. It is suggested that this claim is inflated. The workers should

get much lesser than this.

5. The next claim which is under challenge is the one relating to the Indian Bank. Here the challenge is confined to whether the amount secured can

be treated as first charge.

6. On August 10, 2011, I had directed production of records by the official liquidator. The records have come.

7. I have gone through the determinations of the official liquidator. It follows an old practice of this Court. When a claim is admitted, no reasons are

given. When a claim is rejected, one or two lines in justification of the determination are written. But according to me, this practice should be

discarded by the official liquidator forthwith. With great development in our country of the rules of natural justice and their application by the

courts, an administrative body deciding any right of a person has to give reasons in support of his decision. The office of the official liquidator is

following a practice which is about a century old. In those times, reasons were not required. Moreover, considering the fact that any creditor or

contributory has, under Rule 176 of the Companies (Court) Rules, 1959, the right to challenge admission of claim by the official liquidator against

any other creditor, so both admission and rejection of claim by the official liquidator should be accompanied by reasons.

8. There are no reasons as to why the claim of the Karnataka Bank Ltd., is admitted as wholly preferential or as to the amount of claim. Similarly,

there are no reasons as to the amount of the admitted claim, of the workers.

9. Nothing ought to be done now with regard to the admitted claim of the Indian Bank, as the dispute is only with regard to the classification of the

charge.

10. Therefore, I direct the official liquidator to revise the admission of claim in favour of the Karnataka Bank Ltd., by deciding with reasons which

part of the claim is preferential and which part is not and the total amount of the claim.

11. The official liquidator will re-determine the claim by a reasoned order within a period of six weeks from date.

12. As far as the workers are concerned, although an affidavit of service is on record none appears for them. The amount admitted towards their

claim is Rs. 1,09,09,675 for 68 workers, I would not like to disturb this admission of claim. I direct the official liquidator to examine the

determination under rule 176(1) of the said Rules and to take steps only if upon such examination the admission of claim is found to be erroneous.

13. The official liquidator will only invite objections from the applicant herein and to decide the issue by a reasoned decision within the above time

period. No hearing should be given to any secured creditors under rule 176(1) but the workers may be heard, if necessary.

14. I make it clear that the reasons to be given by the official liquidator may not be long and elaborate but may be short and adequate.

15. This application is accordingly disposed of, by setting aside the admission of claim at page 11 of the affidavit in opposition with regard to

Karnataka Bank Ltd., only.

16. All points are kept open.

17. All parties concerned are to act on a signed photocopy of this order on the usual undertakings.