

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

39. C.P. 4092/MB/2018

CORAM:

SHRI SHYAM BABU GAUTAM
HON'BLE MEMBER (T)

JUSTICE P. N. DESHMUKH (Retd.)
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 22.09.2022**

NAME OF THE PARTIES: - Lalit Devidas Shah
V/s
Valecha Engineering Ltd

APPEARANCE :

FOR THE PETITIONER : Absent

FOR THE RESPONDENT : Absent

Section: 73 (4) of the Companies Act, 2013

ORDER

The matter is taken up through Virtual Hearing (VC). This present Company Application is filed by the Applicant Lalit Devidas Shah against Valecha Engineering Limited under section 73(4) of the Companies Act, 2013 and prayed that Valecha Engineering Limited be directed to make repayment to the Deposit along with interest due thereon in accordance with the Terms and Conditions of the Deposit/Debentures.

Section 73(4) of the Companies Act, 2013 reads as under :

“ (4) Where a company fails to repay the deposit or part thereof or any interest thereon under section (3), the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.”

The said Application was listed before this Bench on several occasions. On 07.06.2022 when the matter was listed for hearing, both the sides did not appear, this Bench directed Registry to issue Court Notice to both parties intimating the next date of hearing. Court Notice was issued on 14.07.2022.

One Counsel, Mr. Avinash Khanolkar appeared and brought to the notice of the Bench that the Official Liquidator, attached to Hon'ble High Court, Bombay is appointed as Liquidator of Valecha Engineering Limited. The Official Liquidator has filed its Report in Company Petition No. **CP(IB)-1286/MB/2017** filed by **Central Bank of India V/s Valecha Engineering Limited** dated 27.08.2021 which reveals that the above-named Company (Valecha Engineering Limited) is in Liquidation.

When the matter appeared today's board i.e. 22.09.2022, none appeared either from the side of the Applicant or from the Corporate Debtor. It is further brought to the notice of this Bench that the matter was listed on various occasions, however, the Applicant did not appear nor prosecuted the matter. The continuous absence of the Applicant further strengthens belief of this Bench that the Applicant is not willing to prosecute the matter diligently. Accordingly, this Bench is left with no option except to dismiss the present Company Petition. Hence, the **C.P. 4092/MB/2018 is dismissed for non-prosecution**. The Applicant herein is given liberty to file their claims before the Liquidator, if not already filed.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)
22.09.2022
Sushil

Sd/-
JUSTICE P. N. DESHMUKH
Member (Judicial)