

EXH. O-

**BEFORE DR. PRIYA P. SHINDE, CONTROLLING AUTHORITY
UNDER THE PAYMENT OF GRATUITY ACT & JUDGE,
SEVENTH LABOUR COURT, MUMBAI.**

APPLICATION (PGA) NO. 650 OF 2022
CNR No. MHLC010020132022

Shri. Devidas Vasant Tawade

..Applicant***Versus***M/s. Vichare Express & Logistics
Private Limited & 3 Ors.**..Opponents****Appearance :**Learned Advocates Shri. Ramdas P. Gajinkar and Ms. Rajeshree
R. Kamble for the Applicant.Learned Advocates Shri. Shafi Kazi & Ms. Sonal Rane for the
Opponents.**ORDER BELOW EXH. C-3**

(Passed on 09/10/2024)

1. The Opponent No.1 filed present application on record to bring certain relevant development/events which have a direct bearing on the captioned proceedings. It is submitted by Opponent No.1 that by an order dated 12/03/2024 passed by Hon'ble NCLT, Mumbai in C. P. (IB) No.1064/IB/MB/2023 filed by M/s. Vichare Loginext Pvt. Ltd. against the Opponent No.1 i.e. Vichare Express & Logistics Pvt. Ltd. the said CP has been admitted and Corporate Insolvency Resolution Process has been initiated against the Defendant and moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) has

been ordered. It is further submitted that in terms of Section 14 of the IBC 2016 and the said order dated 12/03/2024, there is a stay on all proceedings against the said defendant. Consequently, it is submitted that the captioned proceedings are liable to be stayed against the Opponent No.1 i.e. Vichare Express & Logistics Pvt. Ltd. Therefore, the Opponent No.1 prayed to pass necessary orders in the present matter.

2. On the other side, the Applicant has filed his reply below Exh.U-10 and stated that the Gratuity Act is a complete code in itself. Sections 13 and 14 gives complete protection and over riding effect on other enactment. Though the NCLT has passed order admitting the petitions in view of Sections 13 and 14, the same is in applicable so far the present matter is concerned as the gratuity is protected and have overriding effect on the enactment and therefore, the alleged/purported order cannot given be effect to as the order passed by the NCLT is inconsistent with the provisions of Gratuity Act. It is therefore, prayed that the application filed by the Opponent Company for staying the proceedings is contrary to the aforesaid provisions and therefore, the application be rejected.

3. Perused the application and say thereon. The Learned Advocate for Applicant argued the matter. None present for the Opponents for argument. Considering the arguments of the Learned Advocate for Applicant it is observed that the present application is filed by Applicant under the Payment of Gratuity Act, 1972. The Opponent No.1

has emphasized upon the order dated 12/03/2024 passed by the Hon'ble NCLT, Mumbai for Insolvency Resolution Process. Considering the said submission of the Opponent No.1, I have no hesitation to hold that as per Section 14 of the Payment of Gratuity Act the provision of this Act or any Rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of enactment other than this Act. Considering this provision, the present application filed by Opponent No.1 does not survive as under the Payment of Gratuity Act only the entitlement of gratuity can be determined by the Controlling Authority. In such circumstances, there is no necessity to keep the present application in abeyance or to be stayed against the Opponent No.1. Hence, the present application is deserves to be rejected.

Sd/-

(Dr. Priya P. Shinde)

Controlling Authority under the
Payment of Gratuity Act & Judge,
Seventh Labour Court, Mumbai.

Place : Mumbai.
Date : 09/10/2024.
Rry/-