



\$~C-4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.PET. 791/2014**

M/S LAFARGE INDIA LIMITED

..... Petitioner

Through: **Mr. Gaurav Bahl, Advocate**

versus

**OJJUS FIDELITY HEALTHCARE
PRIVATE LIMITED & ORS.**

..... Respondents

Through: **Mr. Rakesh Kumar with Mr. Lakhan
Singh and Mr. Shishir Raj, Advocates**

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

%

19.02.2018

1. This is a company petition filed under Section 433(e), 434 and 439 of the Companies Act, 1956. Despite several opportunities being given, the reply has not been formally brought on record. I am told by the counsel for the respondent company that reply is lying in objection.

2. Briefly, the case of the petitioner company is that supplies of ready mix concrete were made to the respondent company between November, 2012 qua which bills to the tune of Rs.3,62,02,340/- were raised.

2.1 The petitioner, however, admits that a sum of Rs.3,55,63,661/- has been paid by the respondent company. The grievance of the petitioner is, thus, vis-a-vis the balance sum of Rs.6,38,679/-. It is this, principal amount along with interest which is claimed by the petitioner. The petitioner's claim against the respondent company as on 12.09.2014, is in the sum of Rs.9,15,865/-.

3. It appears that the petitioner, in order to claim the balance amount had written several letters to the respondent company, which are dated



26.8.2013, 10.9.2013 and 14.10.2013.

3.2 Furthermore, a notice under Section 434 of the Companies Act, 1956 dated 12.9.2014 was also served upon the respondent company.

4. In this context, I asked counsel for the respondent company whether any reply was sent either to the earlier communications or the demand notice served by the petitioner on the respondent company via its advocate.

4.1. Counsel for the respondent company says that no reply was sent.

5. In these circumstances, clearly the petitioner company has made out a case that the respondent company has neglected and failed to pay the amount due to it.

6. Furthermore, counsel for the respondent company himself says that the financial position of the respondent company is weak. I am also informed that monies are owed by the respondent company to a consortium of banks. The consortium of banks, I am told, have attached properties of the respondent company.

7. In these circumstances, I am inclined to admit the petition. It is ordered accordingly. However, publication of citation is deferred as interest of secured creditors is also involved.

8. Accordingly, issue notice to Punjab National Bank, Tolstoy House, Tolstoy Marg, New Delhi to have the say of the secured creditors in the matter. I am also told that Punjab National Bank is the lead bank.

9. Renotify the matter on 23.8.2018.

RAJIV SHAKDHER, J

FEBRUARY 19, 2018/Nk