

BEFORE THE ADDITIONAL MASTER-III
HIGH COURT, MADRAS.

Comp.A.No.273 OF 2018
IN
C.P.No.255 of 2011

Date: 12.11.2024
Time: 11.15 A.M.

Name : Mr. V.Sambu (PW1)
Age : 58 Years
Father's Name : Mr. K.V.Vasudevan
Office Address : Official Liquidator, Corporate Bhavan,
No.29, Rajaji Salai, Chennai 600 001.

Chief examination by Mr. S.Gopalakrishnan, learned counsel for Official Liquidator.

Solemnly affirmed:

I am an Official Liquidator herein. I am well acquainted with the facts and circumstances of this case. I am filing my proof affidavit today and the same may be treated as part and parcel of my chief examination. The following documents are marked as exhibits.

Ex.A1 is the Photocopy of the Equipment Lease Agreement dated 10.09.2008. (Original produced, verified and returned). (Respondent counsel objected that eventhough the original is available they are not marking the same without any valid reason).

Ex.A2 is the Computer generated copy of Customer wise disbursement report of M/s.Cards Software (P) Ltd. (Respondent counsel objected that this is a typed copy, it

cannot be said to be a computer generated copy. Even if it is computer generated he has to give the affidavit who has entered the data into the computer and the computer was continuously under the control of the person swearing to the affidavit. Since, this company is under liquidation. Document claims that director has given Statement of Accounts based on which the claim has been raised. Therefore, the person before this Hon'ble Court is not a competent person to swear affidavit either for proof affidavit or Section 65B Evidence Act and there is no seal and signature in computer generated copy).

Ex.A3 is the Photocopy of the Demand Notice of Official Liquidator requiring payment of money dated 03.02.2015.

Ex.A4 is the Photocopy of the Notice returned undelivered with postal remarks "Left" dated 05.02.2015. (Original produced, verified and returned).

Ex.A5 is the Photocopy of the Letter of Official Liquidator, High Court dated 15.04.2015. (Office copy of letter produced, verified and returned).

Ex.A6 is the Photocopy of the acknowledged letter dated 16.04.2015 addressed to Inspector of Police Chennai -17 to find whereabouts of the Respondent. (Original produced, verified and returned).

Ex.A7 is the Photocopy of the another Demand Notice of Official Liquidator dated 24.08.2015. (Office copy of notice produced, verified and returned).

Ex.A8 is the Photocopy of the Reply letter dated 21.09.2015 of the Respondent company. (Original produced, verified and returned).

Ex.A9 is the Photocopy of the Letter of Official Liquidator dated 18.11.2015 requesting the Respondent to come in person on 26.11.2015 for clarification as per the Respondent request. (Office copy of letter produced, verified and returned).

Ex.A10 is the Photocopy of the Application allowed by the Hon'ble High Court, Madras dated 04.04.2024. (Respondent counsel objected that this order has been recalled subsequently).

Ex.A11 is the Photocopy of the Letter of Official Liquidator dated 23.04.2024 directing the respondent to pay the debt due amount. (Office copy of letter produced, verified and returned).

Ex.A12 is the Photocopy of the Statement of Accounts of M/s.Cads Software India Pvt.Ltd from 30.06.2004 to 02.09.2011. (Respondent counsel objected that this is a typed copy, it cannot be said to be a computer generated copy. Even if it is computer generated he has to give the affidavit who has entered the data into the computer and the computer was continuously under the control of the person swearing to the affidavit. Since, this company is under liquidation. Document claims that director has given Statement of Accounts based on which the claim has been raised. Therefore, the person before this Hon'ble Court is not a competent person to swear affidavit either for proof affidavit or Section 65B Evidence Act and there is no seal and signature. Further, this statement said to a combined accounts for several agreements and except one agreement all the other agreements have not been produced before this Court).

Ex.A13 is the Photocopy of the Interest Calculation Sheet of M/s.Cads Software India Pvt.Ltd dated 09.08.2024. (Respondent counsel objected that this is a typed copy, it cannot be said to be a computer generated copy. Even if it is computer generated he has to give the affidavit who has entered the data into the computer and the computer was continuously under the control of the person swearing to the affidavit. Since, this company is under liquidation. Document claims that director has given Statement of Accounts based on which the claim has been raised. Therefore, the person before this Hon'ble Court is not a competent person to swear affidavit either for proof affidavit or Section 65B Evidence Act and there is no seal and signature. Further, this statement said to a combined accounts for several agreements and except one agreement all the other agreements have not been produced before this Court).

Ex.A14 is the Photocopy of the Consolidated Repayment Schedule of of M/s.Cads Software India Pvt.Ltd from 27.11.2004 to 01.11.2009. (Respondent counsel objected that this is a typed copy, it cannot be said to be a computer generated copy. Even if it is computer generated he has to give the affidavit who has entered the data into the computer and the computer was continuously under the control of the person swearing to the affidavit. Since, this company is under liquidation. Document claims that director has given Statement of Accounts based on which the claim has been raised. Therefore, the person before this Hon'ble Court is not a competent person to swear affidavit either for proof affidavit or Section 65B Evidence Act and there is no seal and signature. Further, this statement said to a combined accounts for several agreements and except one agreement all the other agreements have not been produced before this Court).

Section 65-B of Indian Evidence Act, Schedule II Sec.92 of IT Act, 2000 as amended under Sections 92 & 93 of the Information Technology Act, 2000 filed for Exs.A2, A12, A13 and A14 on 14.10.2024.

Time : 11.30 A.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-III