IN THE HIGH COURT OF JHARKHAND AT RANCHI

**Civil Review (Filing) No. 445 of 2025**

The Official Liquidator of the Hon'ble High Court of Jharkhand at Ranchi being the Liquidator of Kumardhubi Metal Casting & Engineering Ltd. through K. C. Meena, aged about 57 years, Son of Late Shri Kishan Lal Meena, the Official Liquidator having its Office of the Registrar of Companies cum Official Liquidator, Mangal Tower, 4th floor, Old Hazaribagh Road, Near KantaToli Chowk, Ranchi Jharkhand - 834001..… Respondent No.1/Appellant/Petitioner

VERSUS

1. **Apical Exim Private Limited**, an existing company within the meaning of the Companies Act 2013, having its office at 224A, AJC Bose Road, Krishna Building, suite No. 904 and 905, P.O. and P.S. AJC Bose Road, District Kolkata (West Bengal), PIN 700017, Through its Director Mr. Rakesh Kumar Singhania, aged about 52 years, having its office at 224A, A.J.C. Bose Road, Krishna Buildings, Suite Nos. 904 and 905, Kolkata 700017.

   .......Auction Purchaser/Appellant/ Respondent
2. Bihar State Industrial Development Corporation (BSIDC), through its Managing Director, Indira Bhawan, Jawaharlal Nehru Marg, P.O. and P.S. Patna, District Patna (Bihar).
3. Employees Provident Fund Organisation, through its Regional Manager, Bhagirathi Complex, Karamtoli Road, Near Circuit House, Karamtoli, P.O. Lalpur and P.S. Lalpur, District Ranchi, PIN-834001 (Jharkhand).
4. Bank of India, through its Chief Manager, Zonal Office, having its office at Pradhan Tower, Mahatma Gandhi, Main Road, P.O. - G.P.O., P.S. - Hindpiri, District - Ranchi (Jharkhand), PIN-834001,
5. KumardhubiKaramchari Congress, through its General Secretary, having its office at Kumardhubi, P.O. and P.S. Kumardhubi, District - Dhanbad, PIN-828203.
6. Kumardhubi Metal Casting & Engineering Limited, through its Director, having its office at XLRI Campus, Circuit House Area, P.O. and P.S. Sakchi Town, Jamshedpur, District East Singhbhum, PIN 831001. (In Liquidation)
7. The State of Jharkhand.

8. Jharkhand Urja Vikas Nigam Limited, through its Additional Chief Secretary, having its office at Engineering Building, H.E.C., Dhurwa, P.O. & P.S. Dhurwa, District -Ranchi-834004.

... Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE DEEPAK ROSHAN**

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| For Official Liquidator: | Mr. Himanshu Kumar Mehta, Advocate<br>Mrs. Majusri Patra, Advocate<br>Mr. Vidhan Kr. Singh, Advocate<br>Mr. Rishav Raj, Advocate |
| For the Resp. No.1: | Mr. Sumeet Gadodia, Advocate<br>Mr. Prakhar Harit, Advocate<br>Mr. Anish Lal, Advocate<br>Mr. NilohitChoubey, Advocate<br>Ms. Nidhi Lall, Advocate<br>Ms. Shruti Shekhar, Advocate |
| For the Resp. No.3: | Mr. Sumit Prakash, Advocate |

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**06/Dated: 12.02.2026**

**1.** Heard Mr. Himanshu Kumar Mehta learned counsel for the review petitioner i.e. the official liquidator.

**2.** Official liquidator is also present in the Court.

**3.** Mr. Sumeet Gadodia along with Nilohit Choubey, Nidhi Lall and Shruti Shekhar appear for 1st respondent and Mr. Sumit Prakash appear for 3rd respondent.

**4.** It is submitted that the respondents 2 to 8 are proforma respondents in so far as this review petition is concerned.

**5.** This petition seeks a review of this Courts' order dated 10.12.2024 in Company Appeal No. 1 of 2024, primarily to the extent it awards interest @ 9% per annum on the amount directed to be refunded to the 1st respondent herein. This is evident from grounds of the review petition and the submissions made across the bar on behalf of the review petitioner.

**6.** Mr. Himanshu Kumar Mehta submitted that the Official Liquidator has hardly earned any interest on the amount now directed to be refunded and therefore, the direction for payment of 9% interest is exorbitant. He further submitted that the amount directed to be refunded was initially deposited by the Official Liquidator in a current account, and thereafter, upon seeking permission of this Court, it was transferred into a fixed deposit account. Mr. Mehta also submitted that in terms of Rule 291 of the Company (Court) Rules, 1959, the Official Liquidator is duty bound to pay to the Central Government fees and retain some amount towards management and eventual sale of company's assets. In light of the foregoing, Mr Mehta submitted that the Official Liquidator has earned little, if any, interest on the amount now directed to be refunded; therefore, it would be harsh and inequitable to direct the Official Liquidator to pay any interest on this amount. In any event, he submitted that the direction to pay interest @ 9% per annum is harsh and equitable in the circumstances.

**7.** Mr Mehta also submitted that the amounts realised after the liquidation of the company's assets are ultimately to be paid to almost 1000 workmen of the company. He submitted that any direction to pay interest would leave the workmen with proportionately smaller amounts. He submitted that even this aspect has not been considered by the Company Court before directing payment of interest @ 9% per annum. Mr. Mehta submitted that the above grounds are sufficient for reviewing the Company Courts' order on the aspect of payment of interest @ 9% per annum and therefore, the Company Courts' order may be reviewed to that extent.

**8.** Mr Sumeet Gadodia, learned counsel for the 1st respondent, submits that the company's asset was auctioned and ultimately sold to the 1st respondent. Pursuance of such sale, the 1st respondent deposited an amount of Rs. 76.25 Crores with the Official Liquidator. However, the 1st respondent was given possession only of the movable assets and not of the immovable property purchased at the auction. Ultimately, since the Official Liquidator was unable to give possession of the immovable property, a proportionate refund of approximately Rs. 56.20 Crores was granted to the 1st respondent. He submitted that the Company Court rightly awarded interest @ 9% on this amount because, for no fault of the 1st respondent, the 1st respondent was deprived of this amount. He submitted that the Official Liquidator was duty-bound to ensure that the possession of the auctioned/sold asset was capable of being delivered in its entirety to the 1st respondent. For the failure to so ensure, the 1st respondent cannot be made to suffer. In any event, the Company Court has only awarded interest @ 9% per annum and this, in no manner, constitutes any error apparent on the face of the record.

**9.** Accordingly, Mr. Gadodia submitted that this review petition may be dismissed.

**10.** Upon hearing learned counsel for the parties on 28.01.2026, this Court, made the following Order: -

> ***<u>"05/Dated: 28.01.2026</u>***
> ***<u>I.A. No. 272 of 2026</u>***
> ***1.****The I.A. for waiving the office objections is allowed.*
> ***2.****I.A. No. 272 of 2026 stands disposed of.*
> ***<u>I.A. No. 283 of 2026</u>***
> ***3.****Considering the reasons set out in the I.A., the delay of 04 days in instituting this review petition is condoned,*
> ***4.****I.A. No. 283 of 2026 also stands disposed of.*
> ***<u>Civil Review (Filing) No. 445 of 2025</u>***
> ***5.*** *Heard the learned counsel for the parties.*
> ***6.*** *Mr. Sumeet Gadodia, learned counsel, accepts notice on behalf of contesting respondent no.1 i.e. the auction purchaser.*
> ***7.*** *The review petitioner agrees to supply the memo of the review petition along with its annexures to Mr. Gadodia latest by tomorrow.*
> ***8.*** *The learned counsel for the review petitioner states that he will place on record necessary bank statement/certificate from the Bank, indicating the interest earned on the total deposit of Rs.76,25,00,000/- after excluding the amount of Rs.20,04,12,221/- from the respective dates of deposits, until the actual refund of the amount of Rs.56,20,87,779/- to the auction purchaser.*
> ***9.*** *Such statement/certificate must be filed on the next date, but the copy of the same must be furnished to Mr. Gadodia, the learned counsel for the auction purchaser, latest by 5th of February 2026.*
> ***10.*** *We list this matter on 12th of February 2026 at 2:15 p.m. for further consideration. "*

**11.** The above order was made because this Court, prima facie, felt that the Official Liquidator should not be made to pay interest in excess of what the Official Liquidator may have earned on this amount of approximately Rs. 56.20 crores, now directed to be refunded to the 1st respondent.

**12.** In pursuance of our order dated 28.01.2026, the Official Liquidator has filed I.A. No. 2300 of 2025 enclosing therewith details of the interest earned by the official liquidator on the above amount. In paragraph no. 14 of this I. A's, it is stated that on an average interest @ 6.6% per annum (approximately) was earned.

**13.** The contents of paragraph 14 of the I.A. are transcribed below for the convenience of reference.

> *"14. That in the above fact and circumstances the average calculation of interest accrued from investment and its reinvestment is at the rate of 6.6% (approximately) and upon deduction of Central Government fee and common pull fund from the interest amount the Official Liquidator has received slightly more or less interest of 6%, upon the Fix Deposit on account of the fund of the K.M.C.E.L."*

**14.** Considering the above statement in paragraph 14 of the I.A. and documents submitted along with I.A., it does appear that the Official Liquidator earned interest @ 6.6.% per annum on average on the amount now directed to be refunded to the 1st respondent. Therefore, at least this much interest must be paid by the Official Liquidator to the 1st respondent.

**15.** As far as Mr Mehta's contentions based upon the fees the Official Liquidator was allegedly liable to pay the Central Government or retain for himself under the Company Court Rules are concerned, we do not think that the Official Liquidator can claim any further reduction in interest based upon these contentions. Ultimately, the Official Liquidator will have to explain to the central government that the Court ordered the refund of Rs. 56.25 Crores, together with interest thereon, due to the genuine difficulties the Official Liquidator faced in delivering possession of the auctioned immovable property to the 1st respondent. In any event, the 1st respondent cannot be expected to have any concern with the matter, which is between the official liquidator and the central government.

**16.** The argument that the amounts ultimately recovered from the sale of the company's assets are to be apportioned between approximately 1000 workmen is again no ground to review the interest awarded by the Company Court or even to reduce the same. The amount to be paid to the workmen would obviously refer to the amount legitimately recovered by the Official Liquidator. Therefore, based upon such an argument, the interest rate cannot be reduced any further.

**17.** The principle on which the Courts award interest when ordering a refund is some sort of compensation to the party granted the refund for being deprived of this amount. Further, unless otherwise established, it may be presumed that the party that has retained this amount must have utilised it or itself earned interest thereon. Therefore, when ordering interest, regard must be had to the interest earned by the party which has retained this amount.

**18.** Though this may not be the sole factor, this is certainly one of the crucial factors to be taken into consideration. Moreover, the second crucial factor is that this auction and sale were not strictly commercial transactions. This was a sale by the official liquidator of the company's assets, which were ultimately to be apportioned, inter alia, among the company's workers. The failure to consider these crucial factors and award of interest @ 9% per annum, therefore, results in an error apparent on the face of the record.

**19.** Since the I.A. filed by the Official Liquidator and the material accompanying the same establishes that the Official Liquidator has earned interest of approximately 6.6.% per annum on the amount now directed to be refunded, it is only appropriate that the interest of 9% awarded in the Company's Courts order is scaled down to 6.6.%. We order accordingly.

**20.** The rest of the order remains unaffected, as, as noted earlier, this review was primarily on the ground that the award of interest at 9% per annum was excessive and amounted to an error apparent on the face of the record.

**21.** Admittedly, the amount of approximately Rs. 56.20 crores has already been refunded to the 1st respondent. Because of the pendency of this review petition and the dispute on interest raised therein, no interest has been paid to the 1st respondent. Now that we have disposed of this review petition, we direct the Official Liquidator to pay interest at the rate of 6.6. % per annum within 30 days from today to the 1st respondent.

**22.** The review petition is partly allowed to the above extent. No costs. The pending I.A.s do not survive, and in any event, are disposed of in terms of the above order.

**(M. S. Sonak, C.J.)**

**(Deepak Roshan, J.)**

**February12, 2026**

Fahim/Amardeep/
Uploaded on
16./02./2026