HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Company Petition No. 15/2006

M/s Paam Pharmaceuticals Delh

----Petitioner

Versus

----Respondent

<u>Connected With</u>

S.B. Company Application No. 2/2023

IN

S. B. Company Petition No. 15/2006

Punjab National Bank,

----Petitioner

Versus

Official Liquidator, M/s Paam Pharmaceutical (Delhi) Ltd.,

----Respondent

For Petitioner(s)	:	Mr. A. K. Sharma, Sr. Counsel with Mr. Vikas Jain Mr. Madhav Sharma
For Company in Liquidation	:	Mr. Atma Sha, OL
For Respondent(s)	:	Mr. Gaurav Sharma for OL

HON'BLE MR. JUSTICE SAMEER JAIN

<u>Order</u>

<u>20/09/2024</u>

1. Learned Senior counsel for the petitioner has submitted that the present Company Application No. 2/2023 is filed under Rule 177 of the Companies (Court) Rules, 1959 (for short, the 'Rules of 1959') for condonation of the delay in filing of the claim.

2. Learned Senior Counsel has further submitted that Punjab National Bank (herein referred as PNB/Bank) has granted financial facility (loan) to the company which is presently in liquidation, wherein, all the banks have formed the consortium and PNB headed the consortium.

3. Furthermore, it is submitted that the company in liquidation was ordered to be wound up vide order dated 08.05.2015 passed in SBCOP No. 15/2006, on recommendation of BIFR (Board for Industrial and Financial Reconstruction) and was taken over by the Official Liquidator for management. Moreover, charge of the applicant-Bank was also recorded with the Registrar of Companies.

4. Learned counsel for the Official liquidator has submitted that the applicant-Bank on 29.08.2022, in capacity of being a debenture trustee of the debenture holders, submitted a claim in 'Form 66' before the non-applicant. Qua the same office of Official Liquidator submitted that the last date of submission of the claim was 10.07.2015, therefore, in terms of Rule 168, 177 and 178 of Rules of 1959, the claim is not only time barred, but cannot be considered specially when scrutinization proceedings were adequately taken by PNB consortium. Moreover, applicant-Bank was aware of the proceedings prior to its initiation and provided no satisfactory reasons qua the delay.

5. Learned counsel for the Official Liquidator has further submitted that a sum of Rs. 8.50 Crores subsisted qua which as on date Rs. 7.90 Crores is already disbursed and presently approx. Rs. 60 lacs, additional to the interest stands remaining and there are other secured creditors like LIC, Canara Bank etc., who have participated and were listed in the list of creditors, as per provisions of Rule 168 of the Rules of 1959. It is a settled position of law that as per provisions of Rule 168, 177 and 178 of the Rules of 1959, the creditors list cannot be varied further.

6. At this juncture, learned Senior Counsel appearing for the petitioners has vehemently opposed the same and has submitted that PNB was a consortium leader. The substantive rights cannot be taken away on account of the claim not being forwarded. Learned Senior

Counsel has further submitted that even as on date, Rs. 60 lacs in addition to the interest and future benefits are likely to be accrued.

7. This Court has heard and considered the rival arguments made by respective parties, perused the record and scanned the Rules 168, 177 and 178 of the Rules of 1959 and allied provisions. Taking note of the aforementioned this Court is of the view that a bare perusal of the aforementioned Rules, it can be deduced that the list of the creditors cannot be varied at a subsequent stage. Moreover, Rule 177 and 178 of the Rules of 1959 explicitly states that one has to be vigilant and has to file the claim in an appropriate manner, at appropriate time, in the prescribed format. Nevertheless, it is noted that the applicant-PNB has failed to act upon in the prescribed manner, within the stipulated time.

8. Considering the foregoing facts of the instant matter and the relevant provisions of law, this Court acknowledges that till date whatever disbursements are made are settled. Resultantly, the applicant-PNB ought not have a right/claim qua the same.

9. Howsoever, as on date, qua the remaining balance including the ancillary income, interest and future claim etc. the claim of applicant-PNB can be considered (qua the said benefit apart from the other creditors), strictly in accordance with law.

10. Accordingly, the present Company application No. 2/2023 stands disposed of.

List the Company Petition No. 15/2006 on 18.10.2024.

(SAMEER JAIN),J

Pooja /17-18