

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3344 OF 2005

M/S. ELECTRON INDUSTRIES LTD.,MUMBAI

Appellant (s)

VERSUS

SOHAM POLYMERS PVT. LTD., MUMBAI

Respondent(s)

(With office report)

Date: 28/09/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Mr. Atul Kumar Sinha, Adv.

Mr. Ghanshyam, Adv.

Mr. Devendra Singh,Adv.

For Respondent(s)

Mr. Gopal Balwant Sathe,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel on both sides.

The appeal stands dismissed. No costs.

[Charanjeet Kaur]

[Om Prakash

Court Master

Court Maste

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3344 OF 2005

M/s Electron Industries Ltd. Mumbai .. Appellant(s)

Versus

Soham Polymers Pvt. Ltd. Mumbai .. Respondent(s)

O R D E R

Heard learned counsel on both sides.

This matter arises under the companies Act. The respondent herein filed a petition before the High Court of Bombay under Section 433 of the Companies Act on the ground that the appellant-company has failed and neglected to pay the amount of acknowledged claim of the respondent arising out of the goods sold by the respondent to the appellant-company. The company petition was preceded by a statutory notice under Section 433 of the Companies Act. It is not in dispute that the appellant has not sent any reply to the said statutory notice denying its liability. The Company Petition was resisted by the appellant that there is a bona fide dispute with respect to the liability as reflected in the Company Petition. The Learned Single Judge after considering the rival claims was of the view that the reading of statutory notice not only discloses the material facts but also the necessary particulars. The learned Single Judge was of the opinion that this is a fit case for admitting

the Company

..2/-

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Petition and directed the respondent to advertise the proceedings in the "Free Press Journal" (English Edition from Mumbai) and "Navshakti" (Marathi Edition from Mumbai) and

"Maharashtra Government Gazette". A further direction was issued to the respondent to

deposit an amount of Rs. 2,000/- towards the cost of publication. Against the order passed by

the Learned Single Judge, an appeal was filed before the Division Bench of the High Court.

The Division Bench of the High Court on a consideration of the material placed before it was

of the view that the principal claim for the goods supplied was for a sum of Rs. 31,64,699/-

and the same is reflected in the balancesheet of the respondent-company. The learned Judges

of the Division Bench affirmed the order passed by the Learned Single Judge. We have

perused the orders and other relevant papers and also heard the arguments on both sides. In

our opinion, the respondent has made out sufficient cause for instituting the remedy under

Section 433 (e) of the Companies Act. We do not find any error in the order passed by the

Learned Single Judge and as affirmed by the Division Bench of the High Court. No case for

any interference is made out.

The appeal, therefore, stands dismissed. No costs.

.....J[Dr.

AR.LAKSHMANAN]

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.....J [ALTAMA

KABIR]

NEW DELHI ,

SEPTEMBER 28 , 2005 .