

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22ND DAY OF APRIL, 2014

BEFORE:

THE HONOURABLE MR. JUSTICE ANAND BYRAREDDY

COMPANY APPLICATION Nos.467 AND 468 OF 2014

IN

COMPANY PETITION No.166 OF 2001

BETWEEN:

Janardanachar .S,
Dead by Legal Representatives

1. Sunilkumar,
Son of Late Janardanachar,
Aged about 34 years,
2. Suma,
Daughter of Late Janardanachar,
Aged about 30 years,
3. Gayatri,
Wife of Late Janardanachar,
Aged about 52 years,

All are residents of
Sunil Nilaya,
'C' Block, 6th Cross,
Vidyanagar, Harihar.

... APPLICANTS
COMMON

(By Shri. R.B.Contractor, Advocate)

AND:

The Official Liquidator,
The Mysore Kirloskar Limited,
(in liquidation), 12th Floor,
Raheja Towers,
M.G.Road, Bangalore.

...RESPONDENT
COMMON

(By Shri. K.S. Mahadevan, Advocate for Official Liquidator)

Company Application No.467/2014 is filed under Rule 164 read with 6 and 9 of the Companies (Court) Rules, 1959, praying to set aside Form No.69 and issue direction to the official liquidator to re-adjudicate the claims of the applicant by way of admitting closure compensation and gratuity.

Company Application No.468/2014 is filed under Rule 164 of the Company [Court] Rules, read with Section 5 of the Limitation Act, praying to condone the delay of 921 days in filing appeal.

These Company Applications coming on for Orders this day, the Court made the following: -

ORDER

There is a delay in filing the application. For the reasons stated, the application seeking condonation of delay is allowed.

2. Insofar as the issue arising for consideration in the application filed praying to set aside Form No.69 and to issue direction to the Official Liquidator to re-adjudicate the claim of the applicant by allowing closure compensation is concerned, the said question is no longer *res integra* and stands squarely covered by an order of this court in C.A.No.1382 and 1433/2012 dated 21.03.2013. Therefore, the present application is allowed in terms thereof. The applicant is held entitled to the closure compensation which has been denied and insofar as the claim towards gratuity is concerned payable by the Mysore Kirloskar Employees Gratuity Trust, is not available to the applicant and it is for the applicant to make necessary application before the Trust, to recover the said sum. In the event the Trust declines to make payment of gratuity on the premise that the company in liquidation has made over the

said sum towards gratuity payment, it is open for the applicant to make necessary application before this Court.

The above application stands disposed of accordingly.

**Sd/-
JUDGE**

KS