

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CA/131/73(4)/2017

Under Section 73(4) of Companies Act, 2013

In the matter of

Mr.S.ARUNACHALAM

Vs.

M/s.VARIAR BENEFIT FUND LIMITED

Order delivered on: 28.12.2017

CORAM

K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant : Shri. P. Sriram, PCS

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)

ORDER

1. Under consideration is an application filed by **Mr. S.ARUNACHALAM** (in short Applicant) under Section 73(4) of the Companies Act, 2013 (the Act, 2013) seeking an order directing the respondent Company to pay the sum due in respect of the deposits made by him in the respondent Company.

2. According to the application filed before this Bench, the applicant herein has claimed a total sum of Rs.31,95,110/- (Principal and Interest included as on 31.03.2017) against 27 deposits as per application.

All the deposits are repayable on the date of maturity along with contracted rate of interest. As per application, the applicant received only

Rs.10,000/- towards interest payment till now. However, the Company failed to make repayment on the date of maturity. Since all the deposits were matured and have not been repaid by the Company, the applicant has approached the Registrar of Companies, Tamil Nadu, Chennai (in short ROC, Chennai) and the ROC vide his letter dated 08.07.2017 advised the applicant to approach this Tribunal by filing an application under section 73(4) of the Act, 2013. Hence this application. The applicant has filed all the copies of FD Receipts and clearly mentioned the particulars of FD's in the petition.

3. During the hearing, the learned PCS for the applicant submitted that the respondent Company is a Nidhi Company having its registered office at 193/8, Asiad Colony, Jawaharlal Nehru Road, Anna Nagar Western Extn, Chennai – 600 101. The Company failed to repay the deposits and the whereabouts of the company are not known to the applicant. The learned PCS also submitted that this Tribunal is empowered to direct the company to repay the sum due in respect of the deposits made by the applicant and prayed for a direction to the Company to repay the deposits with interest.

4. Heard submission of the PCS and perused the documents.

5. The Registry of this Tribunal as well as the Applicant have issued notices to the Respondent Company for appearance and submissions, but the same were returned with a postal endorsement “Door Locked”. The learned PCS has also filed an affidavit in proof of dispatch of notice. Considering this submission in relation to the dispatch of notice and return of cover with

endorsement “Door Locked” and the opportunity afforded to the Respondent Company, we heard the Applicant alone, and the submissions made on behalf of the Applicant. Further, we have noted the fact that the whereabouts of the respondent company is not known and the absence of the Respondent Company during the hearings. Hence, we are inclined to proceed with the matter.

6. The Applicant has placed on record the proof of depositing the amount with the Respondent Company by way of copies of the deposit receipts issued and duly signed by the Company. The accepted rate of interest payable by the Respondent Company on the deposited amount is also specified in the application. Since there is no resistance nor appearance by the Respondent Company and in view of the clear documentary proof of deposit by the Applicant, this Bench has satisfied with the above submissions of the Applicant and we direct the Respondent Company to return the deposit amount along with the contracted rate of interest to the Applicant **within thirty days from the date of this order**. Further, the Applicant is directed to file copy of this order with the ROC, Chennai and in turn the ROC is directed to take appropriate action against the Company and all the directors for the default in making repayment of deposits as per the provisions of the Act.

Accordingly, the CA/131/73(4)/2017 is hereby disposed of.


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

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