

Supreme Court of India

Workers Of M/S. Rohtas Industries vs M/S. Rohtas Industries Ltd. on 22 July, 1987

Equivalent citations: JT 1987 (2) SC 283, (1987) IILLJ 1 SC, 1987 (1) SCALE 894, (1987) 2 SCC 588 a, 1987 Supp (1) SCC 462

Bench: M M Dutt, R Misra

ORDER

1. The official liquidator has move this Court for allowing two months further time for effecting sales and thereby raising funds with a view to complying with the directions given by this Court on 27th April, 1987. There is no objection to the grant of time. Counsel on behalf of the workmen points out that such a long time is not necessary.

2. We are told that tenders have already been received and it is for the Official Liquidator to open them and after appropriate processing place them before the learned Company Judge of the High Court for directions. By the end of the next week the Official Liquidator should complete the processing and on 3rd of August, 1987, the papers may be placed before the learned Company Judge. We hope and trust that it would be possible for the learned Company Judge to dispose of the matter within three weeks, that is, by 24th of August, 1987. Within a fortnight thereafter, the Official Liquidator may raise the funds so that by the 21st of September, 1987, disbursement of the dues of the workmen in terms of our previous order can be effected.

3. The Official Liquidator has pointed out that he had required the Company to give a list of workmen and the rate at which they were being paid. Grievance is made that there has been no compliance. Dr. Chitale appearing for the Company has assured us that the requisite information would be supplied within seven days from today to the Official Liquidator.

4. The Official Liquidator has further pointed out that the transactions proposed to be effected by him attract the liability of sales tax and excise duty. It is further represented that there has been a tentative valuation of the goods intended to be sold. The dues of the workmen directed to be paid have also been approximately quantified. The gap is small and unless the Official Liquidator is able to dispose of the goods at a higher price than what has been estimated, it would be difficult for him to meet the demand of sales tax, excise duty at also the wages of the workmen. Faced with this situation, the Official Liquidator has asked for directions us to how he can comply with the order after meeting the statutory liabilities.

5. In the order of the 27th of April, 1987, this Court has already indicated the peculiar circumstances of the case. Those consideration were kept in view when the various claims of the financial institutions were brushed aside from immediate consideration and the wages for the limited period were directed to be disbursed. The same considerations are also germane now when the question of meeting the tax liabilities crops up.

6. After the sale proceeds are received by the Official Liquidator, if he finds that sufficient surplus funds remain in his hands after paying the wages as directed, he would pay the taxes-sales tax and the excise duty. In case there be no surplus, payment of the taxes may be deferred for some time and

the Official Liquidator is directed to explore possibilities of tapping other sources for raising funds to meet those liabilities. The workmen have been facing challenge to their lives and this Court on the earlier occasion indicated that in fixing priorities, saving of human lives should be paramount. We endorse that view. That has been the consideration for postponing payment of the public dues, if necessary.

7. Two financial institutions, namely, the State Bank of India and the United Bank of India have applied for clarifications and modifications of the order dated 27th of April, 1987. We have no difficulty in saying that the order of this Court was made under peculiar circumstances obtaining in this case and may not be taken as a precedent. Whether the company's assets are sufficient to meet all the liabilities is a matter which is yet to be seen and this Court really intended to say that there were other assets against which the financial institutions could pitch their claims. So far as the remaining prayer of the Banks is concerned, they have asked the Court to say that the payments to the workmen should be considered as coming within Sections 529 and 529A of the Companies Act of 1956. Nothing would be said in that behalf now as a proposal for restructuring of the company is very much afoot and if it materialises, that would obviously save the Company from being wound up. Therefore, until the eventuality of winding up comes no orders in that behalf are necessary to be made.

8. Learned Attorney General appearing for the Union of India was to make a statement as to the stage regarding revival of the Company. He is not available and request on his behalf has been made for adjournment. We direct the matter to be called on the 30th of July, 1987, when the learned Attorney General would on the basis of up-to-date instructions make a statement to this Court in that regard.