

LEGAL UPDATES

MADRAS HC: SPICEJET'S APPEAL WAS REJECTED BY HC. CHALLENGING WINDING-UP ORDER, STATES, 'BONAFIDE' DEFENSE ABSENT

SpiceJet Ltd. i.e., the Appellant filed an appeal counter to a verdict of a single judge for acknowledging the petition of Credit Suisse AG for winding up of SpiceJet and for the appointment of an official liquidator owing to the airline's incapability to pay debts computing USD 24 million which was rejected by the Madras HC Division Bench comprising Justices Paresh Upadhyay and Sathi Kumar Sukumara Kurup. The decision was made after it was determined that the Appellant's asserted defences are not legitimate. The HC also pointed out that SpiceJet's defence has two facets. First, the Courts in India would not take cognizance of the papers on which Credit Suisse has relied since they are not stamped. Secondly, S.R. Technics whose engine maintenance facility was being utilised by SpiceJet and for which payments were due lacked a licence from the Director General of Civil Aviation (DGCA). As a result, it was impossible for it to sustain the Appellant's aircraft or engines lawfully, and eventually, no money could be said to be owed to S.R. Technics by the Appellant. Regarding the first defence, the HC noted that the only things to be verified are whether the debt is legitimately disputed and if the said defence is a considerable one. At the moment of the admission of the winding-up petition, the problem is not whether the document pursued to be depended on by the petitioner is adequately stamped or stamped at all. As a result, the court determined that such a defence cannot be regarded as a genuine defence and it is not necessary to discuss it at the time the petition is admitted. Regarding the second argument, it was determined that the Appellant made a showing that, had it known about it sooner, it would not have enlisted S.R. Technics' services, but only after discovering that the DGCA had communicated this information to the Appellant. The Appellant corporation blasts hot and cold together just to suit its comfort; the Court stated rejecting the defence. The Court further observed that the Appellant asserted to be one of the busiest and largest passenger airlines in the nation's civil aviation sector and that, based solely on its own assertions, has been operating for many years without receiving any upkeep for its aircraft or engines from any service provider holding a current DGCA licence.

In light of this context, the admission of a petition according to Sec. 433(f) of the Act may become more pertinent. The Court concluded that there is no need to interfere with the petition's acceptance as a result. Finally, considering the Appellant's petition and with an emphasis on determining whether any challenges to this decision would still be relevant to the Appellant, the HC prolonged the stay issued on the Company Court's winding-up order until January 28, 2022, and dismissed Spice Jet's appeal.