

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Apr-23-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP No.382 of 2012 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction IN THE MATTER OF: CREATIVE WARES LTD.AND INTERNATIONAL ASSET RECONSTRUCTION CO.PVT.LTD.BEFORE: The Hon'ble JUSTICE PATHERYA Date : 23rd April, 2014.

Mr.Anuj Singh, Mr.S.Chowdhury for petitioning creditor.

The Court : For facilities availed by the company from Allahabad Bank whose dues were assigned to the petitioning creditor herein this application has been filed for payment of the assigned dues.

As the dues were not paid in spite of demand raised a statutory notice was issued on 25th July, 2012 to the company by the petitioning creditor.

In fact, the statutory notice was also published in The Bengal Post on 9th October, 2012 and in Prabhat Varta of the same date.

The statutory notice was also served on Mr.Arun Kumar Bagla, a Director of the company who received the notice on 21st September, 2012.

In spite of receipt of notice no affidavit-in-opposition has been filed on behalf of the company or its Ex-Directors or shareholder/contributory.

This evidences that the company has no defence to the claim of the petitioning creditor.

In fact, Mr.Arun Kumar Bagla, Ex-Director of the company in C.P.496 of 2013 filed an application opposing restoration of the name of the company in the records of the Registrar of Companies, West Bengal.

As the company has no defence to the claim of the petitioning creditor, C.P.382 of 2012 is admitted for the sum of Rs.7,62,23,000/- along with interest at 8% per annum on and from the date of issuance of the statutory notice till realisation.

Although the name of the company has been struck off the register of the Registrar of Companies, West Bengal but proviso (b) of Subsection 5 of Section 560 of the 1956 Act specifically provides that irrespective of a company being dissolved, the power of Court to wind up a company even if its name has been struck off is not barred.

Therefore, in view of the proviso mentioned above this order has been passed this day.

An opportunity is given to the company to pay the sums mentioned above in twenty equal monthly instalments.

In default of payment of any one instalment, the petitioning creditor will be at liberty to advertise once in Times of India, Calcutta Edition and once in Ei Samay, Bengali Edition.

The company is restrained from dealing with, disposing of, alienating, encumbering or parting with possession of its assets and properties.

Matter to appear in the list six weeks hence.

Urgent certified photocopy of this order be supplied to the parties, if applied for, upon compliance of all requisite formalities.

(PATHERYA, J.) pa

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