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Re-Attar Filte Limited Vs....

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Court : Delhi

Decided On : Sep-20-2019

Appellant : Re-Attar Filte Limited

Respondent : ...

Advocate for Pet/Ap. : Mr. D. Bhattacharya

Judgement :

$~C-91 * % IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

20. 09.2019 + CO.PET. 216/2007 RE-ATTAR FILTE LIMITED .....

... Petitioner
Through: Mr. D. Bhattacharya, Standing Counsel for Official Liquidator CORAM: HON'BLE MS. JUSTICE JYOTI SINGH JYOTI SINGH, J.

(ORAL) Co. Appl. No.991/2019 1. This is an application filed by the Official Liquidator under Section 481, Companies Act, 1956, read with Rule 281 of the Company (Court) Rules, 1959 (hereinafter referred as CCR), seeking the following prayers: I. The Official Liquidator may kindly be permitted to release an amount of Rs.1,55,560/- to the Commissioner of Custom, Air Cargo Export, New Delhi, after deducting the necessary Government commissions, fee, liquidation expenses from the available company fund balance.; II. The Company may kindly be dissolved Under Section 481 of the Companies Act, 1956 read with 9 of the Companies (Court) Rules, 1959 and the Official Liquidator may be discharged as the

Liquidator of the Company, and accordingly be directed to intimate the Registrar of Companies in this regard; CO.PET. 216/2007 Page 1 of 5 The Official Liquidator may be exempted from III. filing the half-yearly/annual audited accounts with the Honble Court, and accordingly be permitted to close the books of accounts of this Company (in Liqdn.) IV. The Official Liquidator may kindly be relieved from its obligations/duties as the Liquidator of the Company (in Liqdn.) V. proper. Pass such other order/orders as may deemed fit & 2. Perusal of the application reveals that this Company came to be wound up vide Orders dated 18.08.2008 and 26.10.2010, whereupon the citations were published in Delhi Gazette, Statesman and Jansatta on 19.11.2010, ensuring compliance of Rule 113, CCR.

3. The Official Liquidator, then examined the Ex- Directors of the Company (In Liquidation), and inspected the immoveable assets (including the Registered office) which initially seemed to be belonging to it (the details of which have been enumerated at para 04 and 05 of this application). However, as the inspection revealed the same to be not owned by the Company (in Liquidation), the Official Liquidator didnt lay its hands on them. The following table summarises this position: S. No.1. Address/Location of the office/unit Remarks S-61 Greater Kailash -II New Delhi. (Registered Office) to be not be not Found belonging to the Company (in Liqdn.) 2. Factory premises at Plot No Sold - off by ex- management CO.PET. 216/2007 Page 2 of 5 139, Sector 29, Huda, Panipat Haryana. on 07.10.2005.

4. Apart from the above, the examination of the Ex- Directors showed the Cash in Hand to be Rs. 1,200/-, Bank Balance of Rs. 9,771/- and Trade Debtors to the tune of Rs 7,80,32,158/-. The trade debtors, thus, forming the only substantive asset, the Official Liquidator attempted to recover the respective due amounts from them, but could succeed in making recovery from only 02 debtors, and the rest of the debtors could not be traced out, due to insufficient or change in addresses. [reported in Report No.592/ 2013]..

5. Thereafter, in terms of Order dated 15.12.2011, the Official Liquidator invited the claims from creditors by publishing notice in the Statesman (English edition) and Veer Arjun (Hindi edition) on 16.02.2012. (Refer Report No 76/12). In

response to the above, only one claim from the Office of the Commissioner of Customs Air Cargo Export, New Delhi was pressed (reported in Report No 592/13). The said claim though was initially rejected by the Official Liquidator, but, as submitted by learned counsel, post the Order dated 27.09.2017 in CO.A (SB) No.36/ 2014 and finding the available funds to be around Rs.1,70,163/- only (approx.) the Official Liquidator found it appropriate to admit the same, and disburse the available funds. This was seen to be prudent approach by the Official Liquidator as there was no other claimant. CO.PET. 216/2007 Page 3 of 5 6. Learned counsel for the Official Liquidator accordingly submits, that with the above position, the Official Liquidator wont be seized of any other realizable or distributable asset, once the available funds are released to the Commissioner of Customs Air Cargo Export, New Delhi. Thus, learned counsel states that under the said scenario, as is also opined by the Official Liquidator, no purpose will be served to continue with these proceedings and it will be just, proper and equitable to conclude the proceedings and dissolve the Company (in Liquidation) 7. Heard the learned counsel for the Official Liquidator.

8. From the submissions it seems that the liquidation process has been carried out duly, as per the Act. As eventually there was just one claimant, hence, adherence to Sections 529, 529A and 530 is not required, and accordingly disbursement as prayed for can be granted without difficulty. Also since the Official Liquidator has expressed his satisfaction and stated that it is not seized of any other asset, there is no reason not to dissolve the Company (In Liquidation) and terminate the proceedings. Accordingly, the present application is allowed, in the following terms: i. The Official Liquidator is permitted to released a dividend of Rs. 1,55,560/- to the Commissioner of Custom, Air Cargo Export, New Delhi, in satisfaction of the admission letter dated 11.03.2019; ii. The Official Liquidator is also permitted to deduct the necessary Government fee and liquidation expenses, from the available CO.PET. 216/2007 Page 4 of 5 fund balance lying in the Company (In Liquidation) account, as prayed for; and iii. the Company (In Liquidation), namely M/s Attar Filte Ltd. is ordered to be dissolved, subject to the aforesaid dividend disbursement. CO.PET. 216/2007 9. The Official Liquidator shall thus close the books of accounts with respect to the Company (In Liquidation) and communicate this Order to the Registrar of Companies- Delhi.

The next date previous fixed by this Honble Court stands cancelled.

10. Official Liquidator is hereby discharged. SEPTEMBER20 2019 pkb\\/ JYOTI SINGH, J CO.PET. 216/2007 Page 5 of 5

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