

(2013) 04 CAL CK 0076

In the Calcutta High Court

Case No : C.P. Nos. 468 of 2009 and 311 and 315 of 2010

Bengal Waterproof Ltd.

APPELLANT

Vs

Malvika Synthetics (P) Ltd.
 In Re: Shree Bihariji
Trade and Services Pvt. Ltd.
 Klassic Apartment Pvt.
Ltd. Vs Bengal Waterproof Ltd.

RESPONDENT

Date of Decision : 12-04-2013

Acts Referred:

Citation : (2014) 1 CHN 286

Hon'ble Judges : S. Banerjee, J

Bench : Single Bench

Judgement

S. Banerjee, J.—There are several creditors of this company which is trying to stave off liquidation, with many of the creditors having filed petitions of which two have been admitted and advertised. Upon the two advertised petitions appearing, all creditors' petitions pertaining to this company were directed to be listed together and have appeared on at least three occasions. A few supporting creditors have joined in the fray by filing affidavits. The company has admitted the claims of the several creditors and supporting creditors as at March 31, 2013 to be as follows: Each of the creditors above-named is represented and such creditors have accepted the dues as indicated by the company as at March 31, 2013, in most cases inclusive of interest. The company and the aforesaid creditors have agreed that the dues be frozen at the figures at March 31, 2013 as indicated above, subject to repayment of the amounts as indicated herein.

2. The total payout involved is Rs. 1,31,38,855/-. In addition, there is the petitioner in CP No. 315 of 2010, which was admitted, who has waited for a long time for payment. Such petitioner has agreed to take a balance sum of Rs. 4 lakh in full and final settlement of such petitioner's claim if paid off immediately. A cheque for Rs. 4 lakh has been made over by the company to advocate representing the petitioner in CP No. 315 of 2010 bearing the following particulars: Cheque No. 83825 dated April 1, 2013 and drawn on HSBC Bank, 31,

B.B.D Bag, Dalhousie Square. The sum of Rs. 4 lakh includes the advertisement expenses incurred by such petitioner.

3. A cheque for Rs. 18,072/- bearing No. 83830 dated April 1, 2013 and drawn on the same bank has been made over on behalf of the company to Indrajit Ball, the petitioner in CP No. 566 of 2011, as reimbursement of advertisement expenses.

4. The company had indicated on a previous occasion that it would pay off its several creditors who are represented in Court in monthly instalments running into a bit over a year or so. The company was required to carry at least a sum of Rs. 10 lakh to Court today so that the petitioner in CP No. 315 of 2010 could be paid off and the other creditors paid pro rata out of the sum of Rs. 6 lakh. The company has also agreed to arrange a further sum of Rs. 10 lakh when the matter appears next on May 3, 2013 for the several creditors indicated above (other than the petitioner in CP No. 315 of 2010 who has been finally paid) to be again paid pro rata.

5. All the creditors above-named have agreed to this arrangement, subject to the entire dues as indicated being cleared off in about a year or so. It is proposed that after the payment of the total sum of Rs. 16 lakh to the creditors by May 3, 2013, the matter will next appear in the middle of June, 2013 for the company to bring a further amount of Rs. 12 lakh for payment to the creditors. If there is no default in payment till June, 2013, an order may thereafter be made for monthly payments of the balance sum over the next nine months or so.

6. The following payments should be made by cheque to the creditors by the company by April 17, 2013:

7. The cheques may be collected from M/s. Fox & Mondal by advocates representing the creditors in Court by April 17, 2013.

8. Let the matter appear on May 3, 2013 for the further cheques of proportionate amounts being carried to Court of a total value of Rs. 12 lakh to be disbursed to the creditors.

9. The company has represented that there is a corporate debt restructuring scheme under which the company is functioning. The company may be required to produce the scheme in Court at a future date. The company will also remain restrained, till the entire payments are discharged to all the appearing creditors, from dealing with or disposing of or alienating any of its fixed assets without the previous leave of Court. Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.