(2001) 12 GUJ CK 0014

In the Gujarat High Court

Case No : Company Petition No. 7 of 2001

Board for Industrial and Financial Reconstruction APPELLANT

Vs

Managing Director, Gujarat Steel Tubes Ltd. RESPONDENT

Date of Decision : 27-12-2001

Acts Referred:
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 20(1)

Citation : (2006) 2 CompLJ 149

Hon'ble Judges : C.K. Buch, J

Bench : Single Bench

Advocate : Board Opinion, for the Appellant; R.D. Dave, for respondents No. 3 and 6, Uday R. Bhatt, for respondent No. 4, Swati Soparkar, for respondents No. 10, Mukul Sinha, for respondents No. 10, 11 and 12, B.N. Patel, for respondent No. 13 and K.V. Shelat, for the Respondent

Judgement

C.K. Buch, J.—In compliance of the order passed by is court, the Official Liquidator attached to the Court has tendered the publication of advertisement as to final hearing of this petition in the vernacular Gujarati Newspaper, namely, Loksatta-Jansatta, Ahmedabad Edition. The relevant page of the newspaper tendered by the Official Liquidator is taken on record. The zerox copy of the proposal received by Official Liquidator from one Mr. Umakant Rathour of Tej Enterprise is taken on record wherein the Tej Enterprise has shown its willingness to purchase the total assets of the company at Rs. 10 crores. According to the Official Liquidator, the amount proposed is prima facie most inadequate and it is not a reasonable or appropriate amount to the value of the assets of the company. The inventory report has been also prepared.

2. This petition needs to be heard and formal winding up order is required to be passed. Mrs. Soparkar learned Counsel appearing for the ex-director is present in the court and it is submitted that she has no objection if formal winding up order is passed as per the opinion expressed by the BIFR.

3. I have gone through the order passed by BIFR and the report received by the

court. It seems that all reasonable efforts for rehabilitation were made when the pro-ceedings were pending before the BIFR Considering the facts available on record and the submissions made before the BIFR by operating agency and other concerned, the Bench has concluded that there was no rehabilitation proposal with means of finance fully tied up for consideration of the board despite ample opportunities having been given to all concerned. It is also pertinent to note that at the stage of winding up notice, it was open for the Bench to consider if any rehabilitation proposal as an altemative to the winding up of the company. During the course of hearing-the Bench has asked SBI (OA) to submit the latest developments after the issue of winding up notice and after considering the various facts of the case and submissions made before the BIFR, the BIFR observed that it is just and equitable and in the public interest the company should be wound up u/s 20(1) of the Act and, therefore, the opinion of the Board has been forwarded to the Court for passing appropriate orders. All financial institutions and secured creditors have been served. As observed earlier, no concrete or satisfactory proposal has been received even from the Tej Enterprise. All formalities as to publication of the notice have been complied with. So, in the public interest and in the interest of shareholders of the company, I hereby order that the respondent-company be wound up.

4. The Official Liquidator attached to the Court is hereby appointed as liquidator of the respondent-company. The Official Liquidator is directed to take possession of all the assets and affairs of the respondent-company. The Official Liquidator stales that he has already taken possession of the respondent-company and deployed his security. The action of the Official Liquidator till date is hereby regularised. The Official Liquidator is directed to act as per the Act and Rules framed thereunder.

5. This company petition stands disposed of accordingly.