
(2023) 07 DEL CK 0028

In the Delhi High Court

Case No : Company Petition No. 190 Of 2013, Company Application No. 343 Of 2023

Delfin Expo Mart

APPELLANT

Vs

Royal Regency Fassions Pvt Ltd & Others

RESPONDENT

Date of Decision : 05-07-2023

Acts Referred:

Companies Act, 1956 — Section 481

Citation : (2023) 07 DEL CK 0028

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : D. Bhattacharya

Final Decision : Allowed

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.

CO.APPL.343/2023 in CO.PET.190/2013

2. The present application has been moved by the Official Liquidator (OL) under Section 481 of the Companies Act, 1956, seeking dissolution of the Company (In Liqdn.), namely, M/s Royal Regency Fassions Pvt. Ltd., which was directed to be taken over by the Official Liquidator attached to this Hon'ble Court as its Provisional Liquidator on 30th July, 2014.

3. Mr. Bhattacharya, Id. counsel for the Official Liquidator has made his submissions in the application.

4. The Ld. Counsel for the Official Liquidator, Mr. D. Bhattacharya, submits that the Official Liquidator has moved this application as ultimately he could not lay his hands on any asset which could be liquidated nor could make any realization thereof. He states that post the appointment of the official liquidator by this Hon'ble Court, though certain seizures were made, like the registered office of

the Company (In Liqdn.), but later it was found to be not belonging to the Company (In Liqdn.) and rather that property was the personal asset of the Ex-Directors, and which again was mortgaged to Bank of Baroda. Later, Bank of Baroda had seized the same under SARFAESI proceedings and disposed it off on 1st March, 2014 vide a registered sale deed. Accordingly, the Company (in liqdn.) was not found to be owning any immoveable property.

5. The Ld. Counsel further submits that as regards other assets, there were certain moveables like furniture & fittings & stock, and some trade debtors and loans and advances. The Furniture & fittings were stated by the ex- directors to be taken over by the Bank of Baroda. As regards the trade debtors and loan and advances, the value specified were Rs. 82,00,000/-(Approx.), as per the value specified in the statement of affairs dt. 30.07.2014. However, none of them were found to be realizable because when notices were issued to those debtors, all such notices have returned unserved.

6. Further, the Ld. Counsel submits that in these circumstances the Official Liquidator cannot proceed further; he is not left with any asset of the Company (In Liqdn), he has no funds to disburse to Creditors of the Company (In Liqdn.) even if any claims might exist against the Company (In Liqdn.). Accordingly, it is submitted by the Ld. Counsel that no purpose will be served in inviting any claims from the creditors of the Company (In Liqdn.) and to keep the present proceedings alive. As such, the Ld. Counsel prays to allow the present application stating it to be a fit case to order dissolution of the Company (In Liqdn.).

7. Heard the Ld. Counsel.

8. The submissions made herein above demonstrate that the Official Liquidator is unable to make any appropriate seizure or make any realization of funds which he could have utilized to pay off any prospective creditor of the Company (In Liqdn.). Neither are there any immoveable assets nor any moveable asset or cash available in the hands of the Official Liquidator. In the circumstances, this Hon'ble Court is of the view that the present application deserves to be allowed, and is allowed with the following directions:

i. that since no assets are available, the official liquidator is exempted from inviting claims from the creditors;

ii. that M/s Royal Regency Fashions Pvt. Ltd., the Company (In Liqdn.) is ordered to be dissolved hereby, and the Official Liquidator stands discharged accordingly.

9. The Official Liquidator will intimate the concerned Registrar-of-Companies about the present order passed by this Hon'ble Court in not later than 30 days hereof.

10. With the above directions, this present petition along with all pending applications is disposed of.

11. Next date of hearing stands cancelled.