(2012) 08 DEL CK 0073

In the Delhi High Court

Case No : Co. Petition 156 of 2002 and Co. Application 1460 of 2012

Gravure Cils India P. Ltd. APPELLANT

Vs

Intergraph Technologies India P. Ltd. RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:
Companies Act, 1956 — Section 481

Citation : (2012) 08 DEL CK 0073

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Manish Bishnoi, for the Official Liquidator, for the Appellant;

Judgement

Hon''ble Ms. Justice Indermeet Kaur, J.

1 This application has been filed u/s 481 of the Companies Act, 1956 seeking dissolution of the Company M/s. Integraph Technologies India P. Ltd. On 31.3.2003 Provisional Liquidator has been appointed of the aforenoted company. Final winding up order was passed on 12.4.2012. In terms of the order dated 31.3.2002 a team of the Official Liquidator visited Y-54, Okhla Industrial Area, Phase-II, New Delhi (registered office); it was on 24.04.2003 for taking possession of the aforenoted premises. The team met Mr. Sanjay Kalia, Ex Director of the company; he showed rent deed in respect of the ground floor and identified that the ground alone had been taken by the company on rent. The Official Liquidator sealed the ground floor and put his locks on the said premises which is the registered office as also factory premises. On 25.8.2004 Mr. Sanjay Kalia (Ex-Director of the company) had filed his statement of affairs; statements of Mr. Sanjay Kalia and Mr. Aurag Shriniwas, (the other Ex-Director of the company) were also recorded under Rule 130 of the Company (Court) Rules.

2. On 27.9.2004 and 29.9.2004 the plant and machinery {hypothecated with M/s Mahindroo Chemicals (P) Ltd and Dhanlaxmi Bank Ltd. (Secured Creditors)} had been handed back by the Official Liquidator to them. The total machinery articles

lying at the factory premises/registered office of the company amounting to Rs. 20, 49, 407/-has since been handed back to the aforenoted secured creditors on different dates in the year 2004. Vide order dated 10.3.2005 Official Liquidator had been permitted to use the Santro Car on payment of Rs. 2, 10, 000/-into the account of the said company.

3. On 23.5.2009 an auction was held for the remaining articles lying at the factory premises. In a interse bid the articles were sold for a sum of Rs. 2.63 lacs to M/s Manoj Electronics.

4. In terms of the order of this Court dated 08.7.2010, the Official Liquidator had invited claims from all the creditors and workmen by issuing publication in the newspaper ''Amar Ujalla'' (hindi edition) and ''The Statesman'' (english edition). Last date of submission of claims was 15.9.2010; pursuant to the aforenoted publication a claim of Rs. 23.27 was received from the Tax Recovery Office, Range-11, C.R. Building New Delhi; a claim of Rs 23, 26, 663/-was received from the Deputy Commissioner of Central Excise, Division Nehru Place New Delhi; as also another claim of Rs. 23, 34, 141/-was received from the Employees Provident Fund Organization of which an amount of Rs. 8, 43, 882/-was admitted by the Official Liquidator. It has released the payment of EPFO of Rs. 4, 75, 000/-through RTGF on 05.07.2012.

5. In compliance of the order of this Court dated 08.9.2011 an amount of Rs. 1, 25, 642/-has been released to M/s Triple S. Security Agency in full and final settlement of their claims through RTGS mode on 27.09.2011.

6. In compliance of the order of this Court dated 24.05.2012 the Office of the Official Liquidator has published the final winding up citation in "Statesman" (english edition) and "Veer Arjun" (hindi edition); which was on 27.07.2012 and the expenses of the same of Rs. 50, 000/-have to be borne by the two Ex-Directors in equal proportion i.e. Rs. 25, 000/-each by Mr. Sanjay Kalia and Mr. Anurag Shriniwas. 7. No other proceedings/any Criminal Complaint is pending before this Court in respect to Company (liqn.)

8. This application has averred that there are no other assets available for realization. As per the books of account maintained by the office of Official Liquidator the fund of the Company as on 15.07.2012 is Rs. 45, 130.69.

9. In the case of Meghal Homes (P) Limited Vs. Shree Niwas Girni K.K. Samiti & oRs. (2007)7 SCC 753, the Supreme Court, inter alia, in paragraph 31 thereof, held as under :

when the affairs of the Company had been completely wound up or the Court finds that the Official Liquidator can not proceed with the winding up of the Company for want of funds or for any other reason, the Court can make an order dissolving the Company from the date of that order. This puts an end to the winding-up process.

In view of the above decision of the Supreme Court and the facts and circumstances of this case, the liquidation proceedings deserve to be brought to an end. Consequently, M/s. Integraph Technologies India Pvt. Ltd. is dissolved. Liquidation expenses of Rs. 50, 000/-shall be borne by the ex Directors in equal proportion i.e. Rs. 25, 000/-; the ex. Directors, namely, Sh. Anurag Shriniwas and Sh. Sanjay Kalia (all are represented through their counsel) are directed to deposit a sum of Rs. 25, 000/-each as liquidation expenses in the Common Pool Fund of the Official Liquidator within one week from today. The Official Liquidator is permitted to close the books of account of the company. A copy of this order shall be communicated to the Registrar of Companies within 30 days by the Official Liquidator. The present application and the Company Petition No. 156/2012 are disposed off and the Official Liquidator is discharged. The files and records of the company be consigned to record room.