(2002) 02 AHC CK 0027

In the Allahabad High Court

Case No : Misc. Company Application No. 1 of 2002

In Re: Chandra Synthetics Ltd.

Date of Decision : 18-02-2002

Acts Referred:

Companies Act, 1956 — Section 433
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 20
Companies Act, 1956 — Section 433
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 20
Companies Act, 1956 — Section 433
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 20

Citation : (2002) 38 SCL 77

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Judgement

Ambwani, J.—This company application has been registered on receipt of an opinion of Board for Industrial and Financial Reconstruction u/s 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 recorded on 26-9-2001 to wind up the company. The opinion was forwarded on 18-10-2001 and was received by the Court on 2-11-2001.

2. On 21-1-2002, the notices were ordered to be issued to the respondent-company and IFCI to show cause as to why the company may not be wound up. The office has reported that the notices were sent on 28-1-2002 by registered post A/D fixing 18-2-2002 but neither the acknowledgement due nor undelivered cover has been returned back. The notice on the company is deemed to be sufficient under the Rules of Court.

3. The company was declared to be a Sick Industrial Company u/s 3(1)(o) of the Sick Industrial Companies (Special Provisions) Act, 1985 by the BIFR and IFCI was appointed as operating agency. On 1-6-2000, it was reported that no acceptable proposal has been received and as such advertisement was made for change of management. In the third hearing held on 21-7-2000, the operating agency informed that the plant was lying closed and was guarded by security guards of Lionard Security Agency and there were reports of the promoters

disposing of the assets and planning to leave the country. The Board had directed the operating agency to verify the status of the promoters and meanwhile the cost of security should be shared by all the secured creditors. On 28-6-2001, on account of the promoters having gone to USA and apparently not being interested in revival of the company as there being no response to the advertisement for change of management issued by the operating agency, the Board formed a prima facie opinion u/s 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 to wind up the company and a show-cause notice was directed to be published. The company has been absenting to appear before the Board and that the notice sent for winding up the company had also returned undelivered before the Board. The operating agency informed that the promoters had gone to USA and are not interested in the rehabilitation of company and that the unit was lying closed since 1999 and as such, IFCI had no objection to the winding up of the company. It also requested that permission be granted for sale of company''s assets u/s 20(4) of the Act. The representatives of CBI submitted that they had no objection to the winding up of the company. The representative of the IDBI submitted that the Institutions had filed a joint suit in which a decree has been granted on 12-7-2001. The representative of ESIC submitted that their dues were Rs. 24.51 lakhs and they were pursuing legal action for recovery of the same. In the circumstances, the Board confirmed its earlier prima facie opinion that it would be just, equitable and in the public interest to wind up the company. By the same order dated 26-9-2001, the BIFR on the request of IFCI, appointed IFCI as selling agency for sale of company''s assets u/s 20(4) that all the secured creditors shall file up to date statements of their dues as on 25-9-2001 and IFCI shall take possession of the assets of the company and arrange for their insurance and security.

4. In the aforesaid facts and circumstances of the case, this Court accepts the opinion of the BIFR and directs that Chandra Synthetics Ltd. with its registered office A-50, UPSIDC Industrial Area, Sikandrabad, district Bulandshahr be wound up. The official liquidator is appointed as liquidator of the company.

5. The official liquidator shall inform the IFCI of this order and to find out the status of the sale as directed by the BIFR. In case the assets or any part of assets have been sold, the IFCI shall be directed to deposit the sale consideration after deducting the sale expenditure, with the official liquidator. In case the assets have not being sold, the official liquidator shall intimate IFCI and shall take charge of the assets of the company and proceed in accordance with the provisions of the Companies Act, 1956 and Companies (Court) Rules, 1959.

