

(2013) 10 RAJ CK 0087

In the Rajasthan High Court

Case No : Company Application No. 66 of 2013 in SB Company Petition No. 04 of 1982

In Re: O/L of M/s. Shydari Steel Pvt. Ltd.

Date of Decision : 18-10-2013

Acts Referred:

Citation : (2013) 10 RAJ CK 0087

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Advocate : Anuroop Singhi, for the Appellant;

Final Decision : Disposed Off

Judgement

Ajay Rastogi, J.—Instant company application has been filed u/s. 481 of the Companies Act, 1956 seeking order of dissolution of the company in liquidation and permission of this court for dispensing with the requirement of R.180-196 of the Companies (Court) Rules, 1959 for settlement of list of contributories & to transfer the balance amount of Rs. 1,855/- lying in the company's account in the Companies Liquidation Account in the Public Account of India in Reserve Bank of India pursuant to S. 555(2) of the Companies Act. It has been alleged in the application that M/S. Shydari Steel Private Limited having its registered office at Bharatpur was ordered to be wound-up by the Company Court vide order dt. 13.1.1984 passed in SB Company Petition No. 04/1982 and the official liquidator attached to this Court was appointed as the liquidator of the Company from the date of winding-up and thereafter as per the available records with the Registrar of Companies, notices were issued to all the Ex-Directors of the Company in Liquidation for filing statement of affairs u/s. 454 of the Companies Act and prosecution u/s. 454(5) of the Companies Act was instituted against the Directors of the Company in Liquidation for non filing the statement of affairs vide SB Company Criminal Complaint No. 244/1984 and the said Application was disposed of by this Court vide order dt. 5.12.2008. Prior thereto, the statement of affairs were filed by the Ex-Directors of the company in liquidation on 25.1.1999 and as per records there is no misfeasance proceedings against either

of the Ex-Director of company in liquidation u/s. 542/543 of the Act is pending as on date.

2. The Ex-Director of company in liquidation also informed that possession of the property of the company in liquidation was taken over by the Bank of Baroda, Bharatpur as secured creditor against attachment order of District Judge, Bharatpur dt. 15.9.1977 & 6.10.1977 in Original suit No. 10/77.

3. At one stage, this Court vide order dt. 26.8.1988 transferred the Civil Suit No. 19/1980 (Bank of Baroda v. Shydari Steel Pvt. Ltd.) from District Judge, Bharatpur to High Court of Rajasthan u/s. 446 of the Companies Act, 1956 and the suit came to be decided vide order dt. 8.7.1994 (Annx. E).

4. It has also been averred that in compliance of order dt. 8.7.1994, the official liquidator filed application before the Company Court for taking steps regarding valuation of the items which are lying inside the factory premises and after preparation of inventory list OL took steps for auctioning the property of company in liquidation and sealed tenders were invited through wide publication and the process which is initiated for auctioning the property of the company in liquidation was finally confirmed by the Company Court vide order dt. 30.4.2002 and the entire unit of the company in liquidation was sold to the purchaser for a sum of Rs. 8,05,000.

5. Thereafter, the OL invited claims for Creditors & Workmen in Form No. 63 through publication in Rajasthan Patrika (Alwar Edition) dt. 18.5.2006. However, the OL received only two claims which were adjudicated as ordinary claim under the provision of Sec. 530 of the Companies Act, 1956 and no claim of workmen was received and after due adjudication a total payment of Rs. 6,67,018.25 to the Bank of Baroda was made vide cheque No. 490064 dt. 5.3.2009 (Annx. F) and finally after due adjustment of expenses and settlement of claims a sum of Rs. 1,855/- is only lying with the company's account on the date of filing of instant application.

6. Counsel submits that looking to the available funds of the company in liquidation, the OL cannot proceed with further liquidation proceedings and looking to the available funds no purpose is going to be served in settling the list of contributories as per rule 180-196 of Companies (Court) Rules, 1959.

7. Counsel further submits that when affairs of the company has been completely wound up and looking to the available funds no purpose is to be served to proceed with the winding up of company it may be appropriate and be just and reasonable as provided u/s. 481 of the Companies Act, 1956 to grant permission for dissolution of the company in liquidation.

8. I have heard Mr. Singhi, counsel for Official Liquidator and taking note of contents of the application and the material placed on/record, this Court considers appropriate to order for dissolution of the Company in Liquidation provided u/s. 481 of the Companies Act and grant permission to dispense with

the requirement of R.180-196 of the Companies Court) Rules, 1959.

9. Accordingly, the Company in Liquidation stands dissolved in view of S. 481 of the Companies Act and the permission is granted to the official liquidator to transfer a sum of Rs. 1,855/- lying in the company's account in the Companies Liquidation Account in the Public Account of India in Reserve Bank of India pursuant to Sec. 555(2) of the Companies Act, 1956. Consequently, the instant company application, in terms indicated above, stands disposed of.