(2011) 01 RAJ CK 0061

In the Rajasthan High Court

Case No : Company Application No. 2 of 2011 in Company Petition No. 3 of 1992

In Re : Spintex Tubes and Cones Ltd. (in Liquidation)

Date of Decision : 13-01-2011

Acts Referred:

Companies (Court) Rules, 1959 — Rule 180, 181, 182, 183, 184
Companies Act, 1956 — Section 454, 481, 543, 555(2)
State Financial Corporations Act, 1951 — Section 29

Citation : (2011) 163 CompCas 357

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—Mr. Samit Bishnoi for applicant. Instant application has been filed by the official liquidator attached to this court of M/s. Spintex Tubes and Cones Ltd. (in liquidation), u/s 481 of the Companies Act, 1956, for dissolution of the company.

2. M/s. Spintex Tubes and Cones Ltd., was ordered to be wound up by this court vide order dated March 27, 1992, in S. B. Company Petition No. 3 of 1992 and the official liquidator attached to this court was appointed as liquidator of the company with effect from the date of winding up of the company. The ex-directors of the company in liquidation filed statement of affairs on June 15, 1992, pursuant to section 454 of the Companies Act, 1956. It is pertinent to mention here that realisable assets worth Rs. 9,583 was shown in the statement of affairs. However, a sum of Rs. 179 was realised against the amount as mentioned above. The notice was issued to the ex-directors vide letter dated April 30, 1992, in respect of the assets of the company in liquidation and for handing over possession of assets and records to the official liquidator in response thereof, a letter dated October 13, 1993, was received from one of the directors that possession of all assets has been taken over by RIICO and entire record is also with them.

3. On consultation with the office of RIICO, it was informed to the official liquidator vide letter dated November 17, 1993, that they have only taken over

possession of the assets and they are not aware whether record of the company is lying inside the premises. Thereafter, the official liquidator appointed an officer for inspection of premises of the company in liquidation for ascertaining the records. The officers visited the site and records lying in the premises were shifted from Bhiwadi to the office of the official liquidator and for the purpose, total expenses of Rs. 3,137 were incurred and payment was made after seeking prior permission of this court. It has come on record that the assets of the company which were mortgaged with RIICO have been sold by RIICO u/s 29 of the State Financial Corporations Act, 1951 and was approved by this court vide order dated February 10, 1993.

4. At one stage, proceedings u/s 543 of the Companies Act against ex-directors of the company in liquidation were initiated but, the same were dismissed by this court vide order dated October 28, 1999 and in this regard, professional fee was also paid to the chartered accountant whose services were hired by the official liquidator. It has been averred that at present, a sum of Rs. 23,678 is lying in the company''s account which was received from the State Bank of India and the company has no other assets and the official liquidator, after all efforts, is at the conclusion that there is no hope to realise from anywhere the funds as proceedings u/s 543 of the Companies Act, 1956, have already been dismissed by this court. Taking note thereof, it is averred that the affairs of the company in liquidation have been completely wound up and no purpose is going to serve in continuing with winding up proceedings in absence of funds and assets. It has been requested by the official liquidator to dissolve the company in liquidation in exercise of the power u/s 481 of the Companies Act, 1956, while dispensing with requirement of rules 180 to 196 of the Companies (Court) Rules, 1959 and transfer the amount of Rs. 23,678 lying in the company''s account into the Companies Liquidation Account in the Public Account of India in Reserve Bank of India pursuant to section 555(2) of the Companies Act, 1956.

5. After taking note of the submission and after going through the record, this court considers it appropriate that no purpose would serve in continuing with winding up proceedings and accordingly, in exercise of the power u/s 481 of the Companies Act, 1956, since the company in liquidation has no sufficient funds and the official liquidator cannot proceed further with winding up proceedings for want of funds, considers it appropriate to dissolve the company in liquidation after dispensing with requirement of rules 180 to 196 of the Companies (Court) Rules, 1959 and the money lying in company''s account, reference of which has been made supra, may be transferred into the Companies Liquidation Account in Public Account of India in Reserve Bank of India.

6. With the above directions, application filed by the official liquidator u/s 481 of the Companies Act, 1956, stands disposed of. Copy of this order may also be sent to the Registrar of Companies for necessary compliance.

