

(2010) 04 DEL CK 0235

In the Delhi High Court

Case No : Company Application (C) No. 29 of 2008

Jagatjit Brown Forman (India) Ltd.

APPELLANT

Vs

G.K. Mohanty

RESPONDENT

Date of Decision : 19-04-2010

Acts Referred:

Companies Act, 1956 — Section 446, 454

Citation : (2010) 04 DEL CK 0235

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Purnima Sethi, for the Appellant;

Judgement

Sudershan Kumar Misra, J.—This is an application by the Official Liquidator attached to this Court u/s 446 of the Companies Act, 1956 for the recovery of an amount of Rs. 1,17,153/- with interest @ 18% per annum, from the respondent M/s G.K. Mohanty.

2. Pursuant to a petition filed on 14th December, 1999, M/s Jagatjit Brown Forman (India) Pvt. Ltd. was directed to be provisionally wound up on 19th December, 2003 and final winding up orders were passed by this Court on 12th January, 2005. The Official Liquidator attached to this Court was appointed as its liquidator.

3. The company in liquidation, i.e. M/s Jagatjit Brown Forman (India) Pvt. Ltd., was in the business of manufacture, sale and export of liquor and alcoholic beverages and other consumer products.

4. In the statement of affairs, filed by the Ex-Directors u/s 454 of the Companies Act, 1956 along with a list of debtors, it is stated therein that a sum of Rs. 1,67,153/- is owed by the respondent to the company in liquidation. This appears to be incorrect since, as per the books of accounts of the company in liquidation, the debt owed by the respondent is shown as Rs. 1,17,153/-. The Official Liquidator has, therefore, moved this application praying for an order of

recovery of the amount of Rs. 1,17,153/-, along with interest @18% per annum till its realization in favour of the applicant, against the respondent.

5. There has been no appearance on behalf of the respondent so far. The affidavit of service of the respondent has since been filed. Consequently, the respondent was directed to be proceeded ex-parte, and the matter was adjourned to 10th March, 2010. On 12th April, 2010, the applicant's evidence was completed and arguments were heard.

6. An affidavit of Shri Sudhir Kapoor, Assistant Official Liquidator, was filed on 6th April, 2010 by way of evidence in support of the application. Ex.PW1/1 is a copy of the demand notice dated 8th September, 2005 sent by the Official Liquidator to the respondent u/s 446 of the Companies Act, 1956. Ex.PW1/2 is a copy of an extract from the statement of affairs filed by the Ex-Directors. Ex.PW1/3 is a copy of the ledger account maintained by the company in liquidation, pertaining to the respondent. In that ledger, a debit balance of Rs. 1,17,153/- is reflected. Ex.PW1/4 is a copy of the AD card issued by the Department of Posts, evidencing the fact that the aforesaid notice was duly served on the respondent. The respondent has not bothered to respond to the notice of demand.

7. It is stated by counsel for the OL that this claim was due to the company in liquidation on 31st May, 1999 and is within limitation.

8. There is no defence to the claim. The amount claimed stands proved.

9. Consequently, the respondent is directed to pay an amount of Rs. 1,17,153/- to the applicant, along with interest @ 6% per annum from the date of the application till the date of realization of the amount in favour of the applicant.

10. The application is disposed of.