

**(2019) 12 DEL CK 0416**

**In the Delhi High Court**

**Case No :** Company Petition No. 24 Of 2019

**Kuletos Foods Private Limited (In Vol. Liqn.) Vs**

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**Date of Decision :** 23-12-2019

**Acts Referred:**

Companies (Court) Rules, 1959 — Rule 313, 315, 329, 331  
Companies Act, 1956 — Section 488, 497, 497(6), 516

**Citation :** (2019) 12 DEL CK 0416

**Hon'ble Judges :** Jyoti Singh, J

**Bench :** Single Bench

**Advocate :** Kunal Sharma

**Final Decision :** Disposed Of

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## **Judgement**

Jyoti Singh, J

1. This is a company petition, preferred under Section 497 (6) of the Companies Act, 1956. The prayer made in the petition is that the subject company, i.e. Kuletos Foods Private Limited, be dissolved from the date of the filing of the instant petition.

2. The record shows that the subject Company was incorporated on 20.03.2009, with the Registrar of Companies, NCT of Delhi and Haryana. The petition wrongly records that the date of incorporation of the company is 05.03.1990, however the Counsel for the Official Liquidator submits that the same is a typographical error, and that the correct date is 20.03.2009, as is reflected in the master data of the Company, annexed with the petition. The Corporate Identity Number of the Company is U55101DL2009PTC188677. The registered office of the subject Company is stated to be situated within the territory of the NCT of Delhi, at D-1/63, Rajasthali Apartments, Madhuban Chowk, Pitampura, New Delhi - 110034.

3. The authorised share capital of the company is Rs. 10,00,000/-(Rupees Ten Lakhs Only), divided into 1,00,000 (One lakh only) equity shares of Rs. 10/- each. The record shows that the paid-up capital of the Company is Rs.

7,93,600/- (Rupees Seven Lacs, Ninety-Three Thousand, Six Hundred Only), divided into 79,360 equity shares of Rs. 10/-, each fully paid up. As per the records, one Dharmvir Agarwal and Sons (HUF) held 1,350 shares and one Priyanka Agarwal held 78,010 shares.

4. The directors of the Company in issue, as on the date of passing the resolution of voluntary winding up, were Mr. Dharamvir Agarwal and Ms. Vijiya Agarwal.

5. The Board of Directors of the Company, in their meeting held on 30.11.2013, executed and approved a declaration of solvency, which stated that after having made a full inquiry into the affairs of the company, an opinion had been formed that the company would be able to pay its debts in full, within a period of thirty-six months from the commencement of the winding up. The declaration of solvency was accompanied statement of the company's assets and liabilities as on

15.11.2013. The said declaration was filed with the Registrar of Companies, NCT of Delhi & Haryana, New Delhi, on 30.11.2013, in Form 149, as prescribed under Rule 313 of the Companies (Court) Rules, 1959 and Section 488 of the Companies Act, 1956.

6. An Extra-Ordinary General Meeting of the members of the Company was held on 30.11.2013, at the registered office of the Company, where a special resolution for the voluntary liquidation of the company was passed and one Mr. Arun Kumar Jain was appointed as the Voluntary Liquidator of the Company.

7. The Voluntary Liquidator published the notification of his appointment, as required under Section 516 of the Companies Act, 1956, read with Rule 315 of the Companies (Court) Rules, 1959 in Form No. 151, in the Official Gazette on 04.01.2014 and in the newspaper, 'Millennium Post' (English edition) and 'Hari Bhoomi (Hindi Edition)', on 11.12.2013. Further, the Voluntary Liquidator had filed notice of his appointment, in Form 152, with the Registrar of Companies, on 06.12.2013.

8. The Voluntary Liquidator, as required under Section 497 of the Companies Act, 1956, read with Rule 329, published the notification, in Form No. 155, regarding the holding of the final general meeting, on 28.03.2017 in the newspapers, 'Millennium Post' (English edition) and 'Hari Bhoomi (Hindi Edition)' on 26.02.2017 and the Official Gazette on 06.03.2017.

9. The final extraordinary general meeting of the Company was held on 28.03.2017.

10. The Voluntary Liquidator has filed accounts of the Company in Form No. 156 and 157, as prescribed under Rule 329 and 331 of the Companies (Court) Rules, 1959, for the period from 30.11.2013 to 15.02.2017 before the Registrar of Companies, NCT Of Delhi and Haryana, on 28.03.2017, within the prescribed period. As per the statement of accounts of the winding up process, a total of Rs. 73,71,553/- was recovered during the winding up process. A sum of Rs. 15,700/- was expended towards the cost of publication of notices. A sum of Rs. 1,714/-

was expended towards government dues, Rs. 7,266/- was paid towards the trading account, Rs. 46,877/- was paid towards dividend tax and Rs. 12,390/- was expended towards incidental expenses. A sum of Rs. 72,87,606/- was returned to the contributories.

11. The Voluntary Liquidator has furnished a no dues certificate, dated 28.03.2017, stating that the company had no outstanding dues, as on date.

12. The Voluntary Liquidator has also submitted a no dues certificate, dated 23.04.2015, from the Income Tax Department, stating that the subject company has no dues towards income tax.

13. The Registrar of Companies has provided a letter, dated 26.11.2019, stating that the necessary documents and forms have been filed by the Company and that it has no objection to the dissolution of the subject Company. The Ld. Counsel for the Official Liquidator submits that the petition wrongly states the date of the letter, received from the Registrar of Companies, to be 09.03.2016, and that the same is a typographical error. He further submits that the said letter is dated 26.11.2019.

14. The Voluntary Liquidator has submitted a certificate, dated 23.07.2019, stating that the subject Company did not have any bank accounts as on the said date.

15. The contributories of the company, Priyanka Agarwal and Dharamvir Agarwal, have submitted affidavits, both dated 10.10.2017, undertaking to indemnify the concerned parties/departments/authorities of Local/state/Central Government of India, if any dues/shortage/tax Liabilities arise in future in relation with the Company and to pay all lawful claims arising after the winding up of the Company.

16. The Official Liquidator has further submitted that the affairs of the Company have been conducted in a manner, not prejudicial to the interest of the members, and is thus of the opinion that the Company may be dissolved with effect from the date of the filing of the petition.

17. Thus, having regard to the aforesaid facts and circumstances and the record of the case, the prayer made in the petition is allowed and the Company is wound up and shall be deemed to be dissolved with effect from the date of the filing of the present petition, i.e. 03.12.2019.

18. Copy of the order be filed by the Official Liquidator with the Registrar of Companies within the statutory period as per the Companies Act, 1956.

19. The petition is disposed of in the aforesaid terms.