

(2020) 03 DEL CK 0137

In the Delhi High Court

Case No : Company Petition No. 10 Of 2020

Nirex Industries Private Limited (In Vol.Liqn.) Vs

Date of Decision : 06-03-2020

Acts Referred:

Companies Act, 1956 — Section 488, 497, 497(6), 516

Companies (Court) Rules, 1959 — Rule 313, 315, 329, 331

Citation : (2020) 03 DEL CK 0137

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Kunal Sharma

Final Decision : Disposed Of

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 Nirex Industries

Private Limited, be dissolved from the date of the filing of the instant petition.

2. The record shows that the Petitioner Company was incorporated on 02.04.1960, with the Registrar of Companies, NCT of Delhi and Haryana. The

Corporate Identity Number of the Company is U33125DL1960PTC264883. The registered office of the Company is situated within the territory of the

NCT of Delhi, at Unit No. 50 G/F F/P, Mashihgarh, Delhi (South), 110025.

3. The authorised share capital of the Company is Rs.5,00,000/- (Rupees Five Lakhs Only) divided into 5000 (Five Thousand) Equity shares of Rs.

100/- (Rupees Hundred) each. The record shows that the paid-up Share capital of the Company is Rs.4,81,300/- (Rupees Four Lakhs, Eighty-One

Thousand and Three Hundred Only) divided into 4,813 (Four Thousand, Eight Hundred and Thirteen) Equity shares of Rs. 10/- (Rupees Ten) each

fully paid up. As per the records, Mr. Sanjay Barman holds 1617 shares, Mr. Sushil Barman holds 1337 shares and Mr. Manoj Barman holds 1859 shares.

4. The Directors of the Company, as on the date of passing the Resolution of Voluntary Winding Up, were Mr. Manoj Barman and Mr. Sushil Barman.

5. The Board of Directors of the Company, in their meeting held on 29.09.2015, 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 with a statement of the

Company's assets and liabilities as on 31.03.2015. The said declaration was filed with the Registrar of Companies, NCT of Delhi & Haryana,

New Delhi, 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 03.11.2015, at the registered office of the Company, where a

special Resolution for the voluntary liquidation of the company was passed and one Mr. Arvind Chaudhary was appointed as the Voluntary Liquidator

of the Company.

7. Notification of the appointment of the Voluntary Liquidator, as required under Section 516 of the Companies Act, 1956, read with Rule 315 of the

Companies (Court) Rules, 1959 in Form No. 151, was published in the Official Gazette on 03.11.2015. Further, the Voluntary Liquidator had filed

notice of his appointment, in Form 152, with the Registrar of Companies, on 03.11.2015.

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 30.06.2016 in the newspapers, "The Statesman" (English edition) and "Veer

Arjun" (Hindi edition) on 12.05.2016 and in the Official Gazette on 11.06.2016.

9. Learned Counsel for the Official Liquidator submits that though the petition states that the date for the holding of the extra-ordinary general meeting

was 03.11.2015, the same is a typographical error and that the correct date is

30.06.2016, which position is reflected in the Notifications published by the Voluntary Liquidator.

10. The final extraordinary general meeting of the Company was held on 30.06.2016.

11. 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 03.09.2015 to 11.06.2016 before the Registrar of Companies, NCT Of Delhi and Haryana, on 24.11.2015, and

with the Official Liquidator on 26.11.2015, within the prescribed period. As per the statement of accounts of the winding up process, a total of Rs.

39,45,328.86/- was recovered during the winding up process. A sum of Rs. 25,000/- was expended towards the remuneration of the liquidator, Rs.

30,000/-towards legal charges, Rs. 65,324/- towards publication of notices, and Rs. 90,085/- towards incidental outlays. The balance sum of

Rs.37,34,933/- was returned to the contributories.

12. The Official Liquidator has stated that upon an enquiry being made from the Income Tax Department, regarding the dues of the Company, the

Official Liquidator was informed, vide letter dated 25.01.2017, that an amount of Rs. 5544/- was due from the Company, for the Assessment Year

2007-08. The Official Liquidator further states that upon an enquiry being made from the Voluntary Liquidator, the Official Liquidator has been

informed that a demand draft for a sum of Rs. 5544/- had been deposited with the Income Tax Department, vide Challan No. ITNS 283 and that no

dues were pending against the Petitioner Company.

13. The Registrar of Companies has provided a letter, dated 13.12.2019, stating that the necessary documents and forms have been filed by the

Company and that it has no objection to the Dissolution of the Petitioner Company.

14. The ex-Directors of the Company, Mr. Manoj Kumar and Mr. Sushil Barman have submitted an indemnity bond, dated 28.09.2016, undertaking to

pay and settle all lawful claims arising in future after the winding up of the Company and to indemnify any person for any losses that may arise

pursuant to the winding up of the Company and to settle any future liability/debt that may arise against the Company, after the liquidation.

15. 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.

16. 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. 02.03.2020.

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

1956.

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