

(2019) 10 DEL CK 0406

In the Delhi High Court

Case No : Company Petition No. 375 Of 2011, Criminal Original (Company) No. 19 Of 2014

Salahuddin

APPELLANT

Vs

Mahajan Tanners Ltd & Ors

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Companies Act, 1956 — Section 481

Citation : (2019) 10 DEL CK 0406

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Ruchi Sindhwani, Megha Bharara

Final Decision : Disposed Of

Judgement

Jyoti Singh, J

CO. APPL. 1121/2019 IN CO.PET. 375/2011

1. This application has been filed by the Official Liquidator under Section 481 of the Companies Act, 1956, praying that Mahajan Tanners Ltd. (in liquidation) be dissolved and the Official Liquidator be discharged as its Liquidator.

2. It is stated that the Official Liquidator was appointed as the Provisional Liquidator by order dated 11.04.2013 in Mahajan Tanners Ltd. hereinafter referred to as Company (in liquidation) and the same was ordered to be wound up by order dated 15.07.2019 and the Official Liquidator attached to this Court was appointed as the Liquidator of the Company.

3. It is stated in the said application that neither the Registered Office of the Company (in liquidation) nor any other premises with respect to the Company (in liquidation) were sealed by the Official Liquidator.

4. Mr. Ashok Mahajan, Ex-Director of the Company, filed the Statement of Affairs on 04.02.2014, stating that there were no assets of the Company (in liquidation)

and the debts recoverable by the Company are also time barred. Mr. Sanjay Mahajan and Mr. Ajay Mahajan, Ex-Directors stated that they resigned from the Board of Directors in the month of February-March, 1997, and that the requisite Form 32 had also been sent to the office of the Registrar of Companies, however, Form-32 was not filed before the Official Liquidator. Further, Ms. Juhi Mahajan & Ms. Alka Mahajan, Ex-Directors also filed their Form-32 with the office of the Official Liquidator in respect of their resignation from the Company. Ms. Sonali Garg, Ex-Director, filed Form-58, concurring with the Statement of Affairs filed by Mr. Ashok Mahajan.

5. It is further submitted in the present application that no useful purpose will be served by inviting claims from the creditors as no funds are available in the account of the Company (in liquidation) and there are no recoverable assets of the Company (in liquidation) in the knowledge of the Official Liquidator.

6. In the case of Meghal Homes (P) Ltd. vs. Shree Niwas Girni K.K. Samiti & Ors. (2007) 7 SCC 753, the Supreme Court, inter alia, in paragraph 31 thereof, has held as under:

"When the affairs of the Company had been completely wound up or the court finds that the Official Liquidator cannot proceed with the winding up of the Company for want of funds or for any other reason, the court can make an order dissolving the Company from the date of that order. This puts an end to the winding up process."

7. In view of the above decision of the Supreme Court and the facts and circumstances of this case, the liquidation proceedings deserve to be brought to an end. Consequently, Mahajan Tanners Ltd. is dissolved.

8. Application is allowed.

CO.PET. 375/2011

1. The Official Liquidator shall close the books of accounts with respect to the Company (in Liquidation).

2. A copy of this order be communicated to the Registrar of Companies within thirty days by the Official Liquidator.

3. Official Liquidator is discharged.

CRL.O.(CO.) 19/2014

1. This petition was filed by the Official Liquidator.

2. As stated in Co. Appl. 1121/2019, since Mr. Ashok Mahajan is stated to have expired on 08.03.2018 and Mr. Ajay Mahajan, Mr. Sanjay Mahajan, Ms. Juhi Mahajan and Ms. Alka Mahajan are stated to have resigned from the Company (in liquidation) prior to the winding up. Also, in view of the Statement of Affairs and letter of Mr. Ashok Mahajan which disclosed that the Company does not have any recoverable assets, no useful purpose will be served in continuing the

present petition.

3. Accordingly, the petition is disposed of in view of the order passed above.