(2012) 09 DEL CK 0192

In the Delhi High Court

Case No : CO. Petition 334 of 2003

Shalimar Paints Ltd. APPELLANT

Vs

Crown Sales (India) Pvt. Ltd. RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:
Companies Act, 1956 — Section 454, 454(5), 468, 477, 481

Citation : (2012) 09 DEL CK 0192

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Sajeev Sagar, for the Appellant; Rajiv Bahl, for the Official Liquidator and Mr. Sanjeev Narula with Mr. Deepak Sharma, for the Respondent

Judgement

Indermeet Kaur, J.

Report No. 511/2012

1. Report of the Official Liquidator dated 19.09.2012 is taken on record. The Company-Crown Sales (India) Pvt. Ltd. was wound up on 31.11.2010. There were two directors of the Company, namely, Mr. Charan Shah Kohli and Mr. Sanjay Kohli; Mr. Charan Shah Kohli had expired on 09.01.2009; Mr. Sanjay Kohli had filed the statement of affairs which was defective. On 17.02.2011, Crl. (O) No. 24/2006 filed by the Official Liquidator u/s 454 of the Companies Act was disposed of with a direction to Mr. Sanjay Kohli to pay a fine of Rs. 50,000/-. Claims were invited. No claims had been received except the claim of the petitioning creditor. On 01.05.2012, letter was issued to the petitioning creditor to submit his claim. On 28.05.2012, this Court had given final opportunity to the petitioning creditor to file his claim. The petitioning creditor is present in court today. He has fairly conceded that he has no document to support his claim. Fund position of the Company as on 05.09.2012 is Rs. 1,90,712/-. This report is disposed of

CO. PET. 334/2003 and Co. A. 2197/2011 (for dissolution)

2. This application has been filed u/s 481 of the Companies Act, 1956 seeking dissolution of the Company M/s. Crown Sales (I) Pvt. LTD. On 31.08.2005, the Company was provisionally wound up. Final winding up order was passed on 30.11.2010.

3. The registered office of the Company was located at 265, Pitampura, Shivaji Market, Delhi 1100034. There were two directors of the Company, namely, Mr. Charan Shah Kohli and Mr. Sanjay Kohli; notices were issued to the ex. Directors under Rule 130 of the Companies Court Rules, u/s 454(5) of the Companies Act and Sections 468/477 of the Companies Act; the statement of Mr. Sanjay Kohli, ex. Director was recorded under Rule 130 on 31.08.2005; Mr. Sanjay Kohli had filed statement of affairs which was defective; Mr. Charan Shah Kohli had expired on 09.01.2009; ex. Director of the Company filed revised unaudited Balance Sheet in compliance of the order dated 17.02.2011 showing debtors for Rs. 67,200/-, Security Deposit for Rs. 2,000/- and Secured Creditors for Rs. 8,50, 346/-.

4. Directors were given directions to furnish their complete addresses and details of creditors, debtors and security deposits vide letter dated 13.05.2011 but no reply thereto has been received.

5. The Chartered Accountant-M/s. Chaturvedi and Company who had been appointed by this court refused to verify the new Balance Sheet filed by Mr. Sanjay Kohli, ex. Director on the ground that relevant records like Bank Statement, cash Vouchers had not been furnished. Accordingly, application under Sections 468 and 477 of the Companies Act filed by the Official Liquidator was disposed of with a direction to Mr. Sanjay Kohli to pay a fine of Rs. 50,000/- to the Official Liquidator; Mr. Sanjay Kohli was also directed to pay Rs. 20,000/- as fee to the Chartered Accountant. These amounts were accordingly deposited; Rs. 20,000/- was paid to the Chartered Accountant.

6. There are no other assets available for realization. As per the books of account maintained by the office of Official Liquidator the fund of the Company as on 05.09.2012 is Rs. 1,90,712/-.

7. In the case of Meghal Homes Pvt. Ltd. Vs. Shree Niwas Girni K.K. Samiti and Others, , the Supreme Court, inter alia, in paragraph 31 thereof, held as under :-

......when the affairs of the Company had been completely wound up or the Court finds that the Official Liquidator can not 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.

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, M/s. Crown Sales (I) Pvt. Ltd. is dissolved u/s 481 of the Companies Act. The Official Liquidator is also permitted to transfer the balance fund available in the Company''s account to the Reserve Bank of India after creating provision or making payment towards the government fee, audit fee and liquidation expenses. The Official Liquidator is permitted to close the books of account of the company. A copy of this order shall be communicated to the Registrar of Companies within 30 days by the Official Liquidator. The C.A. No. 2197/2011 as also the Company Petition No. 334/2003 are disposed off and the Official Liquidator is discharged. The files and records of the company be consigned to record room.