**(2012) 12 DEL CK 0041**

**In the Delhi High Court**

**Case No :** Co. Petition 179 of 1994

Shri Ram Bearing Ltd. APPELLANT

Vs

M/s Trishakti Electronics P. Ltd. RESPONDENT

**Date of Decision :** 11-12-2012

**Acts Referred:**
Companies Act, 1956 — Section 454, 454(5), 456, 468, 477

**Citation :** (2012) 12 DEL CK 0041

**Hon'ble Judges :** Indermeet Kaur, J

**Bench :** Single Bench

**Advocate :** Mayank Goel, for the Official Liquidator, for the Respondent

## Judgement

Indermeet Kaur, J.

Co. Appl. 2386/2012

1. This application has been filed u/s 481 of the Companies Act, 1956 seeking dissolution of the Company M/s. Trishakti Electronics (P) Ltd. The Company was wound up on 17.09.1999. The registered office of the Company was located at C-37 Cannaught Circus, New Delhi. The factory premises of company was located at C-42, Sector-2, Noida (UP). On reaching the registered office of the Company no signboard was found there; the same was the position qua the factory premises; on reaching there no signboard was found of the factory either. Vipin Sahni, the landlord was contacted who informed that the factory premises was situated at Sector 58, Noida U.P.; on reaching there, the factory was found in possession of UPFC, NOIDA and a small board indicating that person interested in purchase of the said property can contact the UPFC, Noida. The factory premises thus could not be sealed. On enquiry, it was revealed that the said plot was in the name of Enn Vee Electicals (P) Ltd. which was mortgaged to the corporation against financial assistance granted to Enn Vee Electicals (P) Ltd.

2. There were seven directors of the Company; notices were issued to them u/s 454 and 456 of the Companies Act as also under Rule 130 of the Company Court

Rules. Three of the ex-directors, namely, Ashok Talwar, Sunil Kumar and Sanjeet Banerjee had got their statements recorded under Rule 130. As per their statements the only asset of the Company was the factory at C-42, Sector-2, Noida which was owned by the Company. These statements also revealed that day to day business and the records of the Company were being handled by Vipin Sahni, ex-director of the Company.

3. Statement of affairs was not filed by the ex-directors. Record has also not been handed over by them. On 29.11.2012, the application under Sections 468/477 of the Companies Act and the complaint filed by the Official Liquidator u/s 454(5) of the Companies Act were disposed of.

4. Pursuant to the orders of this Court the last audited balance sheet of the Company for the year 31.03.1995 had been collected from the ROC which had reflected that there are three secured creditors i.e. UPFC, State Bank of Hyderabad and SRF Finance Ltd. UPFC had sought a discharge as his dues had been settled and he was accordingly discharged vide order dated 01.05.2007. State Bank of Hyderabad informed the Official Liquidator that it had no knowledge about the latest position about the assets of the Company; further the account had been assigned to ARCIL by the Bank.

5. Statements of Vipin Sahni and Kiran Sahni, ex-directors of the Company were recorded under rule 130 of the Company Court Rules wherein it was revealed that another company, namely, Kalpatru Export (P) Ltd. had purchased the factory premises of the Company (in liqn.). In this scenario, the Official Liquidator could not take possession of any moveable and immoveable assets of the Company.

6. In spite of best efforts the addresses of the other ex-directors could not be traced. On 21.02.2012, the Official Liquidator had been directed to handover the claim notices to Vipin Sahni for inviting claims. Symbolic possession of the premises of the Company at C-42 Sector 2, Noida UP was taken; it was informed that this property had been purchased by Kalpatru Export (P) Ltd. in 1994-1995.

7. On 21.02.2012, this Court had directed Vipin Sahni to deposit a sum of Rs. 1 lac towards the ad-hoc rent of the aforenoted property which was deposited in the office of the Official Liquidator on 23.02.2012. Claims were invited by publication in the newspapers, namely, ''Hindustan Times'' (English Edition) and ''Dainik Jagran'' (Hindi Edition). No claims have been received except the claim of the petitioning creditor i.e. Sri Ram Bearing Ltd. (SBL); the claim of the petitioning creditor to the tune of Rs. 3,03,505.08/- along with interest at the rate of 8% per annum totaling a sum of Rs. 7,52,700/- has since been paid to the petitioning creditor and undertaking of Vipin Sahni and Kiran Sahni has been noted that in case any claim arises in future i.e. of the secured creditor, unsecured creditor, workman or any other category they will satisfy the said claim.

8. There are no other assets available for realization. In view of the aforenoted

 

factual position, no useful purpose would be served in keeping the company alive. As per the books of account maintained by the office of Official Liquidator the fund position of the company as on 20.11.2012 is Rs. 89,724/-.

9. 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 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.

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. Trishakti Electronics (P) Ltd. is dissolved u/s 481 of the Companies Act. The Official Liquidator is permitted to transfer the balance fund i.e. Rs. 89,724/available in the Company''s account to the Reserve Bank of India after creating provision for payment of government fee, audit fee and other 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. 2386/2012 as also the Company Petition No. 179/1994 are disposed of and the Official Liquidator is discharged. The files and records of the company be consigned to record room.

 