

(2021) 04 DEL CK 0088

In the Delhi High Court

Case No : Company Petition No. 562 Of 2014, Company Application No. 284 Of 2021

TATA Capital Financial Services Ltd

APPELLANT

Vs

Ruchika Autolinks Private Ltd

RESPONDENT

Date of Decision : 05-04-2021

Acts Referred:

Companies Court Rules, 1959 — Rule 130
Companies Act, 1956 — Section 456, 468, 477, 544, 546
Companies Act, 2013 — Section 481

Citation : (2021) 04 DEL CK 0088

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Deepak Anand, Aayushmaan Vatsyayana

Final Decision : Disposed Of

Judgement

C. Hari Shankar, J

CO.APPL. 284/2021 in CO.PET. 562/2014

1. This is an application by the Official Liquidator under Section 481 of the Companies Act, 1956, for final winding up of M/s Ruchika Autolinks Private Ltd. (hereinafter referred to as "the Company").

2. Vide order dated 16th August, 2016, this Court appointed the Official Liquidator attached to this Court as Provisional Liquidator to oversee the affairs of the Company, and to take over the assets, Books of Accounts and records of the Company. Thereafter, a team of officials from the office of the Official Liquidator was deputed to take possession of the properties and assets of the company situated at B-86, Durga Vihar, Sainik Farms, Devli Gaon, New Delhi on 22nd

3. A team from the office of the Official Liquidator also visited the second property of the company located at 22nd Milestone, NH-58, Meerut Road,

Ghaziabad. It was seen that the property at B-86, Durga Vihar, Sainik Farms, Devli Gaon, New Delhi was rented out and that the premises at 22nd Milestone, NH-58, Meerut Road, Ghaziabad housed a showroom/service station of Mitsubishi, run by M/s Vivek Autolinks. No records or assets in the name of the Company were found at the said site.

4. A third address, found on the website of the Company at UN Road, Diana, Vasco Da Gama, Goa was also visited by the Official Liquidator on 6th January, 2017. A motor garage run by M/s KAR Motors was found to be operating from the said site. The owner of the said premises stated that he had no relation with the Company.

5. A fourth address, mentioned in the petition at C-71, Sector 44, Noida District, Gautam Budh, was visited by the team of the Official Liquidator on 13th December, 2016. The site was found to be vacant. The neighbour informed the team of the Official Liquidator that the property belonged to one Mr. Upadhayay. Accordingly, the said property was taken over by the Official Liquidator by pasting a notice thereon under Section 456 of the Companies Act, 1956. Security guards were also deployed to guard the property.

6. Subsequently, statutory Notices under Rule 130 of the Companies Court Rules, 1959 and under Section 544 and 546 of the Companies Act, 1956 were issued to the former Directors of the Company on 23rd September, 2016, the Registrar of Companies and the Income Tax Authorities.

7. One Mr. Vivek Upadhayay who claimed to be a former Director of the Company, appeared before the Official Liquidator on 4th October, 2016. His statement was recorded under Rule 130 of the Companies (Court) Rules, 1959. Statement of Affairs was filed by Mr. Upadhayay on 3rd February, 2017, which was found to be defective. Intimation in this regard was communicated to Mr. Upadhayay on 8th March, 2017.

8. No Statement of Affairs was filed by the other former director of the company Mrs. Saroj Upadhayay. Nor did she appear for recording of her statement under Section 130 of the Companies Court Rules.

9. In the circumstances, CrI.(O)(Co.) 7/2017 was also filed by the Official Liquidator, against the former directors along with Co. Appl. 1142/2017 under Sections 468 and 477 of the Companies Act.

10. Vide order dated 1st September, 2017, the former directors Mr. Vivek Upadhayay and Mrs. Saroj Upadhayay were directed to appear before the Official Liquidator on 7th September, 2017.

11. Learned counsel for the Official Liquidator submits, on instructions, that the former directors did not cause to appear on the said date.

12. Co. Appl. 705/2017 was moved by the petitioner-M/s Tata Capital Financial Services Ltd. before this Court. The petitioner stated that the aforesaid plot stood

mortgaged with the petitioner as a guarantee.

13. When the said application came up before this Court on 14th August, 2019, M/s Phoenix Assets Reconstruction Company Ltd. (M/s Phoenix ARC) entered appearance and stated that the petitioner had executed an assignment deed in its favour. This Court directed the Official Liquidator to verify the property documents and, on being satisfied in that regard, handover possession of the property to M/s Phoenix ARC. Subsequently, on 5th September, 2019, the aforesaid property was handed to the authorised representative of the M/s Phoenix ARC. The outstanding charges of the security agency deputed to oversee the property M/s Manasvi Security Services were also liquidated.

14. This Court also permitted the Official Liquidator to invite claims from creditors of the Company by publishing citations in newspapers vide order dated 4th February, 2020 in Co Appl 33/2019. Citations were published but no claims were received.

15. The Official Liquidator clarifies that there are no other assets of the company.

16. In the circumstances, nothing survives for adjudication in these applications. The Company is left with no assets. No claims have been received from any creditors despite citations having been issued.

17. As such, following the law laid down in Meghal Homes (P) Ltd. v. Shree Viwas Girni K.K.Samiti¹, the prayer for final dissolution of the Company deserves to be allowed.

18. Accordingly, M/s Ruchika Autolinks Private Ltd. stands dissolved under Section 481 of the Companies Act, 2013, forthwith.

19. The Official Liquidator stands discharged from functioning as the Liquidator of the Company. The Official Liquidator is permitted to close all Books of Accounts of the Company.

20. All applications as well as Crl.(O)(Co.) 7/2017 filed in these proceedings stand disposed of accordingly.

21. The petition stands disposed of accordingly.