

(2007) 12 MAD CK 0257

In the Madras High Court

Case No : C.A. No. 217 of 2006 in C.P. No. 128 of 2004

V. Thangavel

APPELLANT

Vs

Associated Business Credits Ltd. (In Liquidation) and Others

RESPONDENT

Date of Decision : 17-12-2007

Acts Referred:

Constitution of India, 1950 — Article 83

Citation : (2009) 149 CompCas 543

Hon'ble Judges : S. Rajeshwaran, J

Bench : Single Bench

Advocate : H. Karthik Seshadri, for the Appellant; M. Jayakumar, Assistant Official Liquidator, present in person and T.K. Bhaskar, for respondents Nos. 3, 6, 7 and 9, for the Respondent

Judgement

S. Rajeshwaran, J.—This application has been filed to direct the official liquidator to file Form No. 32 notifying the resignation of the petitioner with effect from October 28, 1999, with the Registrar of Companies, Tamil Nadu, Chennai.

2. Learned Counsel for the applicant submits that as early as on September 12, 2005 (V. Thangavel v. Associated Business Credits Ltd. (in liquidation) [2007] 137 Comp Cas 506), an order has been passed by the Company Law Board, wherein the letter of request given by the applicant on November 3, 1999, has been accepted and the petitioner's resignation ought to have taken effect upon expiration of one month thereof, i.e., December 3, 1999, in terms of Article 83. It was made clear by the Company Law Board in the order, dated September 12, 2005 (V. Thangavel v. Associated Business Credits Ltd. (in liquidation) [2007] 137 Comp Cas 506) that the cessation of office of the director of the petitioner is with effect from December 3, 1999. However, this is without prejudice to his liabilities and obligations which had occurred up to that date, i.e., December 3, 1999 and it was also made clear that the petitioner cannot be put to any liability after December 3, 1999.

3. Learned Counsel for the applicant submits that the order passed by the

Company Law Board on September 12, 2005 (V. Thangavel v. Associated Business Credits Ltd. (in liquidation) [2007] 137 Comp Cas 506) has become final and no steps were taken by the official liquidator challenging that order. However, learned official liquidator submits that he has filed a company application against this order along with an application to condone the delay.

4. Taking note of the submission made by learned Counsel for the applicant as well as the assistant official liquidator, I am of the view that the order passed by the Company Law Board, relieving the applicant from the post of director on and from December 3, 1999, has become final and no prejudice should be caused to him after December 3, 1999.

5. Therefore, the applicant was relieved from the directorship of the company in liquidation on and from December 3, 1999 and no liabilities and obligations could be put against the applicant on and from December 3, 1999.

6. This application is disposed of in the above terms.