
(2002) 11 DEL CK 0134
In the Delhi High Court
Case No : C.P. No. 202 of 1996

Wings Wear Workers Lal Jhanda Union APPELLANT
Vs
Wings Wear Pvt. Ltd. RESPONDENT

Date of Decision : 07-11-2002

Acts Referred:

Citation : (2002) 101 DLT 202

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Ashook Aggarwal, for the Appellant; R.C. Beri, for the Respondent

Judgement

Vikramajit Sen, J.—It is not in dispute that salaries to the workmen have been paid till May, 1995. According to the learned Counsel for the petitioner, a sum of Rs. 31,00,000/- is due and payable pursuant to the Award passed by the learned Tribunal and that if this Award is given effect to fully, approximately Rs. 1,00,00,000/- would be outstanding against the respondent. Mr. Beri, however, contends that the amount would be around Rs. 10,00,000/-, i.e. Gratuity dues amounting to Rs. 9,35,323/- and a further sum of approximately Rs. 50,000/- would be due on account of Leave Encashment. However, Mr. Beri submits that if the petitioners are willing to accept the said sum of Rs. 10,00,000/-, the Company shall make this payment.

2. It is indubitably clear that the respondent is indebted to the petitioner. Mr. Beri states that the respondent has not transacted any business since 1995, as the factory is lying closed. The respondent is, Therefore, undeniably not a going concern. The Company Petition is accordingly admitted.

3. It transpires that further to another winding-tip petition, the Official Liquidator attached to this Court is appointed as Provisional Liquidator. That dispute, however, appears to have been settled as a consequence of which the properties in question were ordered to be de-sealed.

4. In these circumstances, it is palpably in the interest of justice that the assets

of the Company should not be allowed to be dissipated. The respondents have already paid-off claims of other creditors but have neglected to clear the dues of the workmen.

5. The Official Liquidator attached to this Court is appointed as Provisional Liquidator with directions to take over the assets, Books of Accounts, etc. of the respondent Company and file its report within 45 days.

6. Learned Counsel for the respondent Company states that the Provisional Liquidator was also appointed in CP No. 170/92, in which the property was ordered to be de-sealed because a compromise had been reached. However, since no person was forthcoming from the respondent Company, those orders could not be implemented. The property in question will, Therefore, remain sealed.

7. Liberty is granted to the respondent Company to approach the Court with a Scheme as has already been submitted by learned Counsel for the respondent as far back as in August, 2002. Renotify for 11th March, 2003.