

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CA(C) NO. 22 OF 2008 IN CP NO. 439 OF 1999

Reserved on : 15.09.2009
Date of Decision: October 09, 2009

In the matter of the Companies Act, 1956

And

In the matter of

M/s Jagatjit Brown Forman (India) Ltd. (In liquidation) through the
Official Liquidator

.....Applicant

Through : Ms. Purnima Sethi, Advocate
for the Official Liquidator.

Versus

Mr. Jitender Singh

.....Respondent

CORAM :

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

SUDERSHAN KUMAR MISRA, J.

1. This is an application moved by the official liquidator under Section 446 of the Companies Act, 1956 praying for recovery of an amount of Rs. 3518/-, along with interest @ 18% per annum, from the respondent – Mr. Jitender Singh.

2. Pursuant to a petition filed on 14th December, 1999, M/s Jagatjit Brown Forman Pvt. Ltd. was directed to be provisionally wound up on 19th December, 2003 and final winding up orders were passed by this Court on 12th January, 2005. The official liquidator attached to this Court was appointed as its liquidator.

3. The company in liquidation, i.e. M/s Jagatjit Brown Forman Pvt. Ltd., was in the business of manufacture and sale of liquor and alcoholic beverages and other consumer products.

4. On examination of the statement of affairs filed by the ex-Directors under Section 454 of the Companies Act, 1956 along with a list of debtors, the official liquidator discovered that an amount of Rs. 3,518/- is due to the company in liquidation from the respondent. The Official Liquidator has, therefore, moved this application praying for an order of recovery of the said amount, along with interest @ 18% per annum till its realization in favour of the applicant, against the respondent.

5. There has been no appearance on behalf of the respondent, and adverse orders were deferred by this Court in the interest of justice on 20th October, 2008. The Affidavit of service of the respondent has since been filed. Consequently, the respondent was directed to be proceeded ex-parte and the matter was adjourned to 15th September, 2009. On 15th September, 2009, the applicant's evidence was completed and arguments were heard.

6. An affidavit of Mr. Sudhir Kapoor, Assistant Official Liquidator has been filed on 27th August, 2009 by way of evidence in CA(C) No. 22/2008 in CP No. 439/99

support of the application, which is Ex.PW1. The applicant has proved a copy of the statement of affairs filed by the ex-Directors, as also a copy of the ledger account pertaining to the respondent – Mr. Jitender Singh, which was maintained by the company in liquidation. In that ledger, a debit balance of Rs. 3518/- is reflected. He has also proved a copy of the demand notice sent to the respondent on 13th September, 2009 by the Official Liquidator under Section 446 of the Companies Act, 1956 seeking recovery of Rs. 3,518/-. This notice of demand was duly served upon the respondent. The respondent has not bothered to respond to the notice of demand.

7. The respondent had been duly served with notice of these proceedings and there has been no appearance on his behalf. In view of the fact that the respondent has chosen to remain absent, consequently, this Court had no option but to direct that the respondent be proceeded ex-parte.

8. There is no defence to the claim. The amount claimed stands proved.

9. Consequently, the respondent is directed to pay an amount of Rs. 3,518/- to the applicant, along with interest @ 6% per annum from the date of the application till realization of the amount in favour of the applicant.

10. The application is disposed of.

SUDERSHAN KUMAR MISRA, J.

October 09, 2009

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