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% 26.05.2011

Present: Mr. Anil Airi, Advocate with Mr. Siddharth Bawa, Advocate for Jagatjit Industries Ltd.
 Ms. Bhanita, Advocate for respondent SP Gupta and Sons.
 Mr. Hashmat Nabe, Advocate for respondent in Co. Appl. (C) 62/2008.
 Mr. Shri Singh, Advocate for respondent in Co. Appl. (C) 40/2008.
 Mr. Fazlin Anam, Advocate & Mr. V.K. Gupta, Advocate for respondent in Co. Appl. (C) 44/2008, 45/2008, 46/2008, 47/2008, 52/2008 & 54/2008.
 Mr. Rajiv Bakshi, Advocate in Co. Appl. (c) 51/2008.
 Ms. Purnima Sethi, Advocate for Official Liquidator with Mr. S.B. Gautam, Official Liquidator.

- + Co. Appl. (C) 4/2007 in Co. Pet.439/1999
- + Co. Appl. (C) 1/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 5/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 7/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 9/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 11/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 14/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 15/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 16/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 17/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 19/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 20/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 24/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 30/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 33/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 35/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 40/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 42/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 43/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 44/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 45/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 46/2008 in Co. Pet.439/1999

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- + Co. Appl. (C) 47/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 48/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 50/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 51/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 52/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 54/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 55/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 58/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 62/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 63/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 65/2008 in Co. Pet.439/1999
- + Co. Appl. (C) 66/2008 in Co. Pet.439/1999
- * (In the matter of M/s. Jagatjit Brown Forman (India) Ltd.)

On 23rd May, 2011, this Court had passed the following order:-

"Mr. Anil Airi, learned counsel along with Mr. Siddharth Bawa, learned counsel for M/s. Jagatjit Industries states that the company (In liqn.) was a joint venture between M/s. Brown Forman Mauritius Limited and M/s. Jagatjit Industries. He states that the aforesaid joint venture had turned 'sour' way back in the year, 1999. He also states that this Court vide detailed order dated 19th December, 2003 appointed a Provisional Liquidator under Section 433(f) of the Companies Act, 1956. Mr. Anil Airi, learned counsel contends that ever since then, the foreign company namely M/s. Brown Forman Mauritius Limited has not shown any interest in the company (In liqn.). He also states that M/s. Jagatjit Industries is also not interested in reviving this company.

I also asked Ms. Purnima Sethi, learned counsel for Official Liquidator as to whether any amount is due and payable to any secured or unsecured creditor or to any workman. She states that though no claim has been invited from the public at large, but till date neither any workman nor any secured or unsecured creditor has filed any claim with the Official Liquidator.

If this is the position, then I fail to understand as to why

the Official Liquidator is pursuing various claims against third parties at great cost because even if the Official Liquidator were successful in recovering the money, the same would be refunded back to the contributories—who are not interested in pursuing the proceedings any further. Consequently, I direct the Official Liquidator to be personally present before this Court on 26th May, 2011.

List the matters on 26th May, 2011."

On In pursuance to the said order, Mr. S.B. Gautam, Official Liquidator is personally present in Court. He confirms that claims had been invited in the year, 2005 and advertisements were published in 'Statesman' (English) and 'Dainik Jagran' (Hindi) on 29th December, 2005. He points out that despite the last date of filing of the claims being 31st January, 2006, no claim either from any secured or unsecured creditor or from any workmen has been received.

On Mr. S.B. Gautam, Official Liquidator states that a sum of Rs.4,00,000/- has been recovered from sale of two vehicles and from some decrees passed under Section 446 of the Companies Act, 1956. He also states that in case notices have to be served upon the unserved respondents in the various applications listed today and in those pending before the Registrar, the official Liquidator would have to incur expenditure worth Rs.7,00,000/-.

Mr. Gautam, Official Liquidator further candidly admits that

the ledger entries on the basis of which present recovery proceedings under Section 446 of the Companies Act, 1956 have been filed are not supported by any primary document like a voucher. He also states that no debit or credit notes are available with the Official Liquidator.

Mr. Gautam lastly states that even if money decrees were to be passed by this Court, it would be very difficult to the Official Liquidator to execute the said recovery decree as most of the respondents being Annual Indian Made Foreign Liquor Licence holders would not be traceable.

Mr. Anil Airi, learned counsel for Jagatjit Brown Forman (India) Ltd. on instructions of Mr. K.K. Kohli, Company Secretary of Jagatjit Brown Forman (India) Ltd. confirms the fact that there are no secured or unsecured creditors of the company in liquidation and no further dues are payable to any workman. He also reaffirms the fact that none of the joint venture partners is interested in reviving the company in liquidation and/or in incurring any expenditure in serving majority of the unserved respondents.

In view of the aforesaid statement by the Official Liquidator and Mr. Anil Airi, learned counsel for Jagatjit Brown Forman (India) Ltd. as well as the fact that primary documents like invoices and

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vouchers are not available and further the amount recovered in the present proceedings would be used to repay the contributories who are not interested in pursuing the present proceedings as is apparent from the consent order dated 12th January, 2005 passed in C.P. 439/1999, this Court is of the opinion that no fruitful purpose would be served in carrying on with the present proceedings.

Accordingly, the present applications are dismissed.

The Registry is directed to list all pending applications filed under Section 446 of the Companies Act in the case of M/s. Jagatjit Brown Forman (India) Ltd. before this Court on 03rd June, 2011.

Let a copy of this order be placed on all CAs files pertaining to the company in liquidation.


MANMOHAN, J

MAY 26, 2011

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