

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****COMPANY APPEAL NO.63 OF 2014****IN****COMPANY PETITION NO.84/397-398/CLB/MB/2013**

Muffazal Hakim Penwala & Ors.

...Appellants

Vs.

Deli Penrex Stationery Pvt. Ltd. & Anr.

...Respondents

WITH**COMPANY APPLICATION NO.32 OF 2015****IN****COMPANY APPEAL NO.63 OF 2014**

.....

Mr. Mustafa Doctor, a/w. Mr. A. Davar and Mr. Sumit Raghani, i/b. Agrud Partners, for the Appellants.

Mr. Rajiv Kumar, Senior Advocate, a/w. Ms. Sneha Phene, and Ms. Akshay Vora, i/b. Little & Co., Respondent No.2

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CORAM: S.C. GUPTE, J.**DATE : 16 OCTOBER, 2015.****P. C. :-**

. The Company Appeal is disposed of by passing the following order in invitum :

1. The Respondent No.1 is a Joint Venture Company. The Appellants and the Respondent No.2 are facing a deadlock and are not in a position to carry on the business and manage the affairs of the Company. All the shareholders are before the court. In the circumstances, it is just and equitable that Respondent No.1 company be forthwith wound up by

the Court.

2. The impugned order dated 9th July, 2014 passed in Company Petition No. 84/397-398/CLB/MB/2013 is quashed and set aside.

3. It is agreed and accepted by the Appellants and Respondent No.2 that this appeal with necessary modifications be treated as a winding up petition under the provisions of Section 439 of the Companies Act, 1956 and that the same be admitted and advertised in accordance with the relevant provisions of the Company Court Rules.

4. The appeal is accordingly treated as a winding up petition and will be renumbered as such. The petition is admitted and will be advertised in the Official Gazette of the State and in the Free Press Journal and Navashakti newspapers.

5. The Official Liquidator High Court, Bombay is appointed as Provisional Liquidator of the Company.

6. The Liquidator will take charge of the stock of Deli stationery as per the list submitted by the Appellants which is taken on record and marked as 'X' which is presently lying at Gala Nos. 101 to 105, 1st Floor, Kailash Complex, Purna Village, Bhiwandi, District: Thane.

7. The Liquidator will have the said stock valued and will thereafter sell the same by public auction after issuing public notice of the sale. The sale will be completed within a period of eight weeks from the

date of this order. One of the conditions of sale will be that the purchasers of the goods will be entitled to resell the same.

8. The sale proceeds from the said stock will be retained by the Official Liquidator for the purposes of meeting the statutory and other liabilities of the Company. Any surplus amount available on the winding up of the company shall be distributed in accordance with the relevant statutory provisions in that regard.

9. The Appellants personally undertake and the Respondent No.2 undertakes through their authorized representative Mr. Lubin Zhou, that they will not oppose the passing of a final winding up order with respect to Respondent No.1 Company.

10. It is agreed between the parties that the Joint Venture Agreement dated 12th April, 2009 and Exclusivity Agreement dated 1st January, 2010 hereby stand terminated by mutual consent, and that the parties thereto have no claims against each other. The Parties agree that all the consequences of termination provided in the JV Agreement and the Exclusivity Agreement shall follow.

11. The Parties agree to withdraw all legal proceedings against each other, both civil and criminal, including Suit No. 583 of 2014 filed by the Appellants on the original side of the Hon'ble High Court, Bombay. Neither party has any claim against each other except as provided for in these consent minutes.

12. Petition is made returnable on 23rd November, 2015.

(S. C. GUPTE, J.)