

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2015

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.P.No.179 of 2015

and

Comp.A.Nos.427 and 428 of 2015

M/s.Jeevas Communications
a registered partnership firm
having its office at
96/104, Kaveri Complex,
Shop Nos.19 and 20, Nungambakkam High Road,
Nugambakkam, Chennai 600 034
represented by its Partner, J.Madhan ... Petitioner

Vs.

M/s.Indus Mobile Distribution Private Limited
Company incorporated under the provisions
of the Companies Act,1956 and having
its registered office at
281, T.T.K.Road, Alwarpet,
Chennai - 600 018. ... Respondent

This Company Petition is filed under Sections 433(e) and (f), and 434(1)(a) and 439(1)(b) of the Companies Act, 1956 praying the following reliefs:

(a) the respondent, viz., M/s.Indus Mobile Distribution Private Limited, having its registered office at 281, T.T.K.Road, Alwarpet,

Chennai - 600 018 be wound up by an order and direction of this Hon'ble Court under the provisions of the Companies Act, 1956;

(b) For the appointment of the Official Liquidator, High Court, Madras to take charge of the assets properties, stock in trade and books of accounts of the respondent company, namely, M/s.Indus Mobile Distribution Private Limited; and

(c) The respondent be directed to bear and pay the costs of this petition and the proceedings to the petitioner.

For Petitioner : Mr.P.H.Aravind Pandian,
Senior Counsel
for M/s.Harishankar Mani

For Respondents : Mr.M.S.Murali
for M/s.R & P Partners.

ORDER

The respondent has filed an affidavit today sworn by an Authorised Signatory. A schedule is also attached to the affidavit undertaking the payment plan by the respondent. The schedule also indicates the amount and the mode of payment payable by the respondent to the petitioner Company. As per schedule-I, the total sum payable is Rs.4,50,00,000/- and the respondent is agreed to pay the same to the SBI GIC Limited as nominated by the petitioner company M/s.Jeevas Communications.

2. The respondent has also filed the extract of resolutions of Board of Directors to the said effect, which reads as follows:-

Extracts of Resolutions of the Board of Directors of M/s.Indus Mobile Distribution Private Limited, held at the registered office of the company at Karthick Complex, 281, TTK Road, Alwarpet, Chennai-600 018 on Wednesday, the 29th day of July 2015.

“RESOLVED THAT the consent of the Board of Directors of the Company be and is hereby accorded to appoint Mr.C.Sivanandam as Authorised Representative of the Company in the matter of C.P.No.179 of 2015 titled as - Jeevas Communications -vs- Indus Mobile Distribution Private Limited pending before the High Court of Judicature of Madras.”

“RESOLVED THAT Mr.C.Sivanandam, be and is hereby authorized and empowered to file and sign all papers, documents, submissions, complaints, caveats, applications, written statement, replication, appeal, revision, undertakings as well

as affidavits, as may be required to be filed, for and on behalf of the company in the matter of above mentioned case in any Court or Tribunal and also to give evidence, if any required, in connection therewith and also to settle and compromise the same and also in connection therewith, and to do such other acts, deeds and things in connection thereto, as may be considered necessary and expedient in relation to the above case.

RESOLVED FURTHER THAT any of the Directors of the company be and are hereby authorized to forward the certified true copy of the resolution wherever deemed necessary.”

3. The affidavit filed by the authorised representative of the respondent along with the Schedule of Payment reads as follows:-

1. *I am the Director of the respondent herein and I am well acquainted with the facts of the instant case in my official capacity and I am duly authorised and competent to swear this affidavit on behalf of the respondent.*

2. The petitioner had supplied mobile phone handsets during the period 28 August 2014 to 16 December 2014 to the respondent for which several invoices were raised by the petitioner on the respondent which could not be paid by the respondent for various reasons. Subsequently, the petitioner instituted winding up proceedings against the respondent and claimed a sum of Rs.12,48,02,394/-(Rupees Twelve crores forty eight lakhs two thousand three hundred and ninety four only) (hereinafter the '**claimed amount**'). The claimed amount includes the invoiced amount and interest accrued on thereon.

3. During the course of winding up proceedings, the parties had entered into discussions and as a result of the negotiations between the petitioner and the respondent, the parties have agreed to settle the dispute between themselves amicably, I state that the petitioner has agreed to accept Rs.4,50,00,000/- (Rupees four crores and fifty lakhs only) ("Settlement Amount") as the "**full and final settlement**" against the total claimed amount of Rs.12,48,02,394/- (Rupees twelve crore, forty eight lakh, two thousand, three hundred and

ninety four only) in the present winding up petition relating to the pending invoices.

4. I state that the petitioner and the respondent have agreed that the payment of the Settlement Amount of Rs.4,50,00,000/- (Rupees four crores and fifty lakhs only) shall be made in accordance with the terms mentioned in the schedule I which is annexed to this affidavit to the subrogated agent of the petitioner. The total payment shall be handed over through post dated cheque as per the Schedule I.

5. That after making the payment of total settlement amount of Rs.4,50,00,000/- (Rupees four crores and fifty lakhs only) to the SBI GLC Limited as nominated by M/s.Jeevas Communications, M/s.Jeevas Communications has agreed to issue NDC (no due certificate) stating that they have no further claims or demands against M/s.Indus Mobile Distribution Private Limited of any nature whatsoever, either monetary or otherwise and all the disputes and differences have been amicably settled between parties of the present petition.”

Schedule I

<i>Serial No.</i>	<i>Payment Plan</i>	<i>Amount</i>	<i>Mode of Payment</i>
1	On or before 31 st August 2015	Rs.50 lacs	Indian Bank – Post dated cheque No.462657 & 462658 – Rs.25 lacs each
2	On or before 30 th September 2015	Rs.50 lacs	Indian Bank – Post dated cheque No.462668 & 462659 – Rs.25 lacs each
3	On or before 31 st October 2015	Rs.100 lacs	Indian Bank – Post dated cheque No.462672, 462674, 462659 & 462660 - – Rs.25 lacs each
4	On or before 30 th November 2015	Rs.100 lacs	Indian Bank – Post dated cheque No.462661, 462663, 462670 & 462671 - – Rs.25 lacs each
5	On or before 31 st December 2015	Rs.150 lacs	Indian Bank – Post dated cheque No.462662, 462664, 462665, 462666, 462667 & 462675 – Rs.25 lacs each
	Total	Rs.450 lacs	

4. The learned counsel for the petitioner also has made an endorsement accepting the schedule of payment given by the respondent-Company. The petitioner-Company only prays for liberty for revival of the Company Petition, in the event of the respondent-company defaults in payment as per schedule.

5. Recording the affidavit and the mode of payment as mentioned in the schedule by the respondent and also the acceptance as endorsed by the learned counsel for the petitioner, the Company Petition is disposed of in terms indicated above. The affidavit filed on behalf of the respondent along with Schedule shall form part of the record. Consequently, connected Company Applications are closed.

mra

07.08.2015

PUSHPA SATHYANARAYANA, J.,

mra

C.P.No.179 of 2015
and
Comp.A.Nos.427 and 428 of 2015

07.08.2015