HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

COMPANY APPLICATION Nos.1196 of 2014 & 1115 of 2015

Date:13.07.2015

Between:
The Official Liquidator of M/s Allwyn Watches Ltd (in liqn)

..... Applicant

And:
The Principal Secretary to Government, Industries and Commerce Department, Hyderabad and 19 others.

.....Respondents

Counsel for the Applicant: Sri M.Anil Kumar

Counsel for Respondent Nos.2, 3, 5, 6 & 16: Sri P.V.Markandeyulu
Counsel for Respondent No.13: Sri V.Veerabhadra Chary
Counsel for Respondent No.17: Ms V.Dyumani

The Court made the following:
COMMON ORDER:

Company Application No.1196 of 2014 is filed *inter alia* for permitting the Official Liquidator to sell the Plant & Machinery and current assets of the company (in liquidation) situated at Patancheru, Hyderabad by inviting sealed tenders; for permitting the Official Liquidator to publish notice inviting sealed tenders in Hyderabad editions of 'Sakshi' (Telugu daily) and 'Deccan Chronicle'

(English daily) newspapers, and in the Eastern and Western editions of "The Economic Times" (English daily) newspaper; for fixing the minimum Upset price of the assets of the company (in liquidation), etc.

By order, dated 24.12.2014, in Company Application No.1570 of 2014, this Court has permitted the Official Liquidator to fix the minimum Upset price at Rs.9,06,12,000/- for sale of the Plant & Machinery and current assets of the company (in liquidation) by fixing Rs.1 crore as the Earnest Money Deposit and Rs.2,000/- as the cost of the tender form.

The Official Liquidator has filed his report, dated 17.2.2015, wherein it is *inter alia* stated that wide publication of the tender notification was made and though inspection of the assets of the company (in liquidation) was made by 41 intending purchasers on 02.02.2015, no one has purchased the tender form; that on the information given to the secured creditors, their representatives were present in the meeting on 11.02.2015, wherein it was agreed for making vigorous attempts to sell the subject assets since the land and vacant buildings have to be handed over to M/s NMDC Limited, who purchased the same; that as there was urgency in disposing of the Plant & Machinery, in the meeting held on 16.02.2015, the secured creditors have agreed to fix the Realizable value of Rs.7,55,10,000/-, as mentioned by the Valuer in his Valuation report, dated 30.7.2014, as the minimum Upset price, and to make one more attempt to bring the Plant & Machinery to sale, subject to the orders of this Court.

By order, dated 31.3.2015, this Court has accepted the request of the Official Liquidator to reduce the minimum Upset price to the Realizable price and permitted him to publish notice inviting sealed tenders in "Eenadu" (Telugu daily) newspaper having circulation in the States of Andhra Pradesh and Telangana and in all the editions of “The Hindu” (English daily) newspaper and in Maharashtra and Gujarat editions of “The Economic Times” (English Daily) newspaper and file his report.

The Official Liquidator has filed his report, dated 04.6.2015, wherein he has *inter alia* stated that two bidders have participated in the auction and M/s Bumax Properties LLP has made the highest offer of Rs.3.40 crores as against the minimum Upset price of Rs.7,55,10,000/-.

On 08.6.2015, this Court has passed the following order:

> “The Official Liquidator has filed his report, dated 04-06-2015 wherein he has *inter alia* stated that two bidders have participated in the auction and that M/s.Bumax Properties LLP has made the highest offer of Rs.3.40 Crores as against the upset price of Rs.7,55,10,000/-.
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> Mr.M.Murali, the representative of M/s.Bumax Properties LLP, is present in the Court and on the Court asking him to enhance his offer, he has stated that he may pay Rs.20 lakhs more than the highest offer of Rs.3.40 Crores made by his Company.
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> Though notices have been served, except respondent Nos.3, 6, 13 and 17, no other secured creditor has entered appearance.
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> Mr.P.V.Markandeyulu, learned Counsel for respondent Nos.3 and 6, and Mr.Veerabhadrachary, learned Counsel for respondent No.13, requested for three weeks’ time for filing the objections, if any, from their respective clients.
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> Post on 29-06-2015.
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> In the meantime, the Official Liquidator is directed to hold negotiations with M/s.Bumax Properties LLP for further enhancement of the offer. The Official

Liquidator shall issue notices to all the secured creditors informing them of the date of negotiations and permit them to participate in the negotiations. It is made clear that the Official Liquidator shall hold negotiations irrespective of whether all or any of the secured creditors have participated or not in the negotiations after receipt of notice."

On 29.6.2015, this Court has passed the following order:

"The Official Liquidator has submitted his report, dated 26-06-2015. He has stated that as against the offer of Rs.3.40 Crores made by M/s.Bumax Properties LLP, M/s.Guru and Ram, Chartered Accountants, had made the offer of Rs.3.70 Crores on behalf of M/s.Polytech Automation Private Limited.

The Counsel representing Mr.S.Niranjan Reddy, learned Counsel, submitted that their client M/s.Saif Steel Syndicate has filed Company Application No.1060 of 2015 wherein it has expressed its willingness to offer a sum of Rs.3.90 Crores.

Having regard to these offers, this Court feels that M/s.Saif Steel Syndicate must make a firm offer by producing the Demand Draft on the next date of hearing. Since M/s.Saif Steel Syndicate has not approached the Official Liquidator by paying the Earnest Money Deposit (EMD) and has been making its offer for the first time before the Court, I feel it appropriate that preference must be given to M/s.Bumax Private Limited LLP and M/s.Polytech Automation Private Limited, who had participated in the negotiations before the Official Liquidator by paying EMD.
If the offers made by either of these two companies match the offer made by M/s.Saif Steel Syndicate, such offers deserve to be preferred and highest offer among them is to be accepted. Only in the event of these two

Companies failing to match the offer made by M/s.Saif Steel Syndicate, the latter's offer will be considered for confirmation.

All the three bidders have sought for time.

Post on 06-07-2015."]

On 06.7.2015, this Court has passed the following order:

"M/s Bumax Properties LLP has raised its offer to Rs.4.05 crores.

M/s Omni Enterprises, which has handed over a demand draft (DD) for Rs.75,00,000/- towards Earnest Money Deposit (EMD) has also offered Rs.4.05 crores and the said DD was handed over to Sri M.Anil Kumar, the learned counsel for the Official Liquidator.

Learned counsel representing M/s Saif Steel Syndicate also submitted that his client will submit DD for Rs.75,00,000/- tomorrow and make its offer.

Sri R.K.Lenin, on behalf of M/s Guru and Ram, Charterd Accountants, on behalf of M/s Polytech Automation Private Limited, submitted that he also raised his offer to Rs.4.05 crores.

Sri Jagpreet Singh submitted that he will produce DD for Rs.75,00,000/- tomorrow and make his offer.

Another person on behalf of M/s SAK Enterprises submitted that he will produce DD for Rs.75,00,000/- tomorrow and make their offer.

Post on 07.7.2015."

On 07.7.2015, this Court has passed the following order:

"The bid process has been completed today. The following agencies have submitted their Earnest Money Deposits

(EMDs) for Rs.75 lakhs each, (1) M/s Gayathri Steels, (2) M/s A.I. Botia Company, (3) M/s Universal Builders, (4) Vikram R.Unnathkat, (5) M/s Bumax Properties LLP, (6) M/s Omni Enterprises and (7) Sri R.K.Lenin on behalf of M/s Guru and Ram, Chartered Accountant, on behalf of M/s Polytech Automation Private Limited and the representatives of the said agencies have participated in the bid process.

Ms Jayati Chakraborthy, Deputy General Manager of IDBI Bank, is personally present in the Court.

Sri Jagpreeth Singh, who was present on 06.7.2015 and offered to submit his Demand Draft today, is not present.

The bid was commenced with M/s Universal Builders offering Rs.4.06 crores. Eventually, the said bidder i.e., M/s Universal Builders has offered the highest amount of Rs.5.70 crores. M/s Gayathri Steels has offered the second highest amount of Rs.5.60 cores.

Sri P.V.Markandeyulu, the learned counsel for IDBI, IFCI and Standard Chartered Bank-the secured creditors, requested for short time for instructions from his clients on the acceptability or otherwise of the highest bid.

Sri M.Anil Kumar, the learned counsel for the Official Liquidator, has also requested for short time for filing appropriate application for confirmation of the sale.

M/s Universal Builders and M/s Gayathri Steels emerged as the highest and second highest bidders respectively. The Official Liquidator shall retain their EMDS. As other bidders have requested for return of their respective EMDs, I feel it appropriate that the Official Liquidator returns the EMDs to other bidders, *viz*., M/s Bumax Properties LLP, M/s Omni Enterprises, M/s Guru and

> Ram, Chartered Accountant, on behalf of M/s Polytech Automation Private Limited, M/s A.I.Botia Company and Vikram R.Unnathkat.
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> Accordingly, the Official Liquidator is directed to retain the EMDs of M/s Universal Builders and M/s Gayathri Steels and return the EMDS to the above-mentioned other bidders.
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> The representatives of M/s Universal Builders and M/s Gayathri Steels shall remain present in the Court on 13.07.2015.
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> By the next date of hearing, the Official Liquidator shall file appropriate application and Sri P.V.Markandeyulu, learned counsel representing the above-mentioned three secured creditors and Ms Dyumani, the learned counsel for respondent No.17, shall obtain instructions from their respective clients to enable the Court to finalize the bids."

After the case was adjourned on 07.7.2015, the Official Liquidator has filed Company Application No.1115 of 2015. Along with the application, he has enclosed a copy of Terms and Conditions of Sale, the Attendance Sheet and Bid sheet, dated 07.7.2015. It is *inter alia* stated in the affidavit, filed in support of the said Company Application, that during the *inter se* bidding that has taken place before this Court on 07.7.2015, M/s Universal Builders of Hyderabad made the highest offer of Rs.5.70 crores and M/s Gayathri Steels has made the second highest offer of Rs.5.60 crores; and that this Court has directed the Official Liquidator to retain the Earnest Money Deposits of the first and second highest bidders and return the Earnest Money Deposits to the other unsuccessful bidders immediately. The Official Liquidator has, accordingly, prayed for confirming the offer of Rs.5.70 crores made by the highest bidder- M/s Universal Builders of Hyderabad and on such acceptance, an order to return the Earnest Money Deposit of M/s Gayathri Steels, Hyderabad may be passed. That Clause-14 of the Terms and Conditions of Sale be modified by enhancing the time limit for removing the auctioned Plant & Machinery and current assets of the company (in liquidation) besides ordering that the costs of the said Company Application do come out of the assets of the company (in liquidation).

Sri P.V.Markandeyulu, the learned counsel representing respondent Nos.2, 3, 5, 6 and 16, filed a memo stating that the said respondents are agreeable for accepting the highest offer of Rs.5.70 crores made by M/s Universal Builders, Hyderabad. Ms Dyumani, has filed a similar memo on behalf of respondent No.17.

Sri V.Veerabhadra Chary, the learned counsel for respondent No.13, has submitted that his client has also no objection for accepting the highest offer of Rs.5.70 crores.

Today, at the hearing, representatives of respondent Nos.2 and 3 and Assistant Official Liquidator are present and requested for confirming the sale in favour of M/s Universal Builders.

No one has represented the remaining secured creditors in spite of service of notices on them.

In the above facts and circumstances of the case, this Court is thoroughly convinced that the Plant & Machinery and current assets of the company (in liquidation) put to auction has fetched the highest possible price and there is no possibility of any better price being fetched in respect thereof.

Accordingly, the highest offer of Rs.5.70 crores made by M/s Universal Builders, Hyderabad is accepted and the bid is confirmed in its favour. The payment of the balance amount shall be made by the highest bidder by way of a Demand draft within 30 days from today.

The highest bidder-M/s Universal Builders, Hyderabad has agreed that the process of removal of the Plant & Machinery and current assets of the company (in liquidation) will be commenced on payment of the balance bid amount. The highest bidder shall not cause any damage to the civil structures situated in the subject premises while removing the Plant & Machinery and current assets therefrom.

As regards the time required for removal of the Plant & Machinery and current assets from the subject premises, which was already sold to M/s NMDC Limited, on 07.7.2015, the highest bidder has requested for six months' time. This Court has informed its representatives that the Court may allow four months' time for removal of the Plant & Machinery and current assets from the subject premises. Today, the representatives of M/s Universal Builders, Hyderabad have requested for a month's more time.

Mr. Kancharna Ratnam, learned counsel representing Mr. K.Raghavacharyulu, the learned counsel for M/s NMDC Limited, which has filed Company Application No.1438 of 2014 for handing over the vacant subject premises to it, has fairly agreed for granting the successful bidder five months' time from today, without further extension of time for removing the Plant & Machinery and current assets from the subject premises. The representatives of M/s Universal Builders, Hyderabad have agreed that they will not seek further extension of time beyond five months.

In the above facts and circumstances of the case, the highest bidder is directed to remove the Plant & Machinery and current assets from the subject premises within five months from today. It is made clear that no further extension of time will be granted under any circumstances.

Subject to the above directions and observations, the Company Applications are allowed as prayed for.

JUSTICE C.V.NAGARJUNA REDDY

13th July, 2015
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