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

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**CO.APP. 61/2014 & CMs No.19805/2014 & 19807/2014**

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**Date of decision: 16<sup>th</sup> April, 2015**

**EMPLOYEE PROVIDENT FUND ORGANIZATION**

..... Appellant

Through: Mr. Balraj Diwan, Adv.

versus

**M/S.DURABLE ELECTRICAL PVT. LTD.& ORS. & ANR.**

..... Respondents

Through: Mr.Rajiv Bahl, Official  
Liquidator

**CORAM:**

**HON'BLE MS. JUSTICE GITA MITTAL**

**HON'BLE MR. JUSTICE P.S.TEJI**

**GITA MITTAL, J. (Oral)**

1. The Regional Provident Fund Commissioner assails the order dated 20<sup>th</sup> February, 2014 passed by the learned Company Judge accepting the application under Section 481 of the Companies Act, 1956 and dissolving the company. The submission of the appellant is that against its claimed dues of Rs.32,00,000/-, the Official Liquidator has adjudicated and held that sum of Rs.19,44,630/- only was due and payable by the company.

2. It is submitted before us that this adjudication of the claim of the appellant by the Official Liquidator is contrary to the dues of the company as per the records of the appellant which were placed before the Liquidator. The record placed before us shows that after scrutiny, the official liquidator has concluded that Rs.19,44,630/- was payable to the Regional Provident Fund Commissioner and the sum of Rs.3,95,507/- was payable to the Employees State Insurance Corporation. These claims have been adjudicated upon by the official liquidator as back as on 3<sup>rd</sup> May, 2012. During the winding up proceedings, out of the amounts of the company available with the Official Liquidator, disbursement to the tune of Rs.19,44,630/- was made by the Official Liquidator which was accepted without any objection.

3. We find that no appeal against the quantification by the Liquidator of the dues of the appellant was ever filed by it. On the contrary, in the order dated 10<sup>th</sup> May, 2012 passed by the learned Company Judge in the presence of the Regional Provident Fund Commissioner, Faridabad, the liabilities of company towards amounts as payable to the appellant as well as to the Employees State Insurance Corporation were directed upon to be discharged by ex-Directors. Learned counsels appearing for the Regional Provident Fund Commissioner as well as the Official Liquidator were directed to provide inspection of the relevant records to the ex-directors.

4. It appears that so far as the winding up petition (Co. Petition No.190/1994) is concerned, the Official Liquidator had filed the application under Section 481 of the Companies Act, 1956 which was registered as CA No.1890/2013 seeking dissolution of company. The Official Liquidator had informed the court by way of this application that the company did not have any funds available and all claims filed had been adjudicated. The appellant does not dispute this position as well, though challenge is laid in the appeal to the settlement of dues claimed by the appellant.

5. In this background, the order dated 20<sup>th</sup> February, 2014 passed by the learned Company Judge accepting the prayer made in CA No.1890/2013 and directing dissolution of the company court cannot be faulted on any legally tenable grounds. Given the facts that winding up proceedings are complete and no funds are available for disbursement to any other or further creditor. Consequently, nothing more remains to be done by the official liquidator.

6. We have put it to learned counsel for the appellant that even if the appellant's contention that it was entitled to the claim of Rs.39,24,390/- was accepted, what could be the outcome, given the nil fund position of the company? There is no answer forthcoming. It is obvious that no fruitful proceedings could be undertaken against the company inasmuch as no assets are available for disbursement. For this reason as

well, we find no merit in the appeal. Accordingly, the appeal and these applications are dismissed.

**GITA MITTAL, J**

**P.S.TEJI, J**

**APRIL 16, 2015**  
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