

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2016

Coram

The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.No.342 of 1998

M/s.Karam Chand Thapar and Bros.,
(C.S.) Limited Rep. by
Mr.A.P.Ravindran,
Deputy General Manager,
No.4, Second Line Beach,
Chennai - 1. Petitioner

Vs.

M/s.Navakkarai Spinners Limited,
Rep. by its Managing Director,
1054/19, II Floor,
Gowtham Centre Annexe,
Avanashi Road,
Coimbatore - 641 018. Respondent

Prayer : Petition filed under Sections 433(e) and (f) and 439 of the Companies Act, 1956 and Rule 95 of the Company (Court) Rules, to order (a) the Company Navakkarai Spinners Limited be wound up under the directions of this Hon'ble Court under the provisions of the Companies Act ; (b) directing the Official Liquidator be appointed as Liquidator of the Company with all powers under the Companies Act 1 of 1956 to take charge of the assets and liabilities of the company and to conduct its affairs under the supervision of the Court, and of wind up and distribute its assets in accordance with law ; (c) the Official Liquidator be appointed as Provisional Liquidator of the company with all powers pending hearing and final disposal of the petition ; and (d) costs incidental to the petition thereon be provided for.

For Petitioner : Mr.Anand Venkatesh
for M/s.Aravind Subramani

Mr.P.Atchuta Ramaiah
Official Liquidator

ORDER

1. On the previous date, i.e., on 22.07.2016, I had observed that the Division Bench of this Court, vide order dated 23.09.2015, passed in O.S.A.No.184 of 2012, had set aside the order of my predecessor dated 23.01.2012.

1.1. This order was passed by the learned Single Judge in C.A.Nos.6 of 2011 and 384 of 2012. By this order, the learned Single Judge had rejected the prayer of the respondent company, to set aside the winding up order. Furthermore, as noticed by me, in the order, dated 22.07.2016, the Division Bench also set aside the winding up order dated 14.07.2000.

2. In my order dated 22.07.2016, I had indicated that notice has to be issued to M/s.Raj Enterprises. Furthermore, the Official Liquidator (for short 'the OL') was required to file a report with this Court, with regard to the assets and record of the respondent company.

2.1. Accordingly, the OL has filed a report dated 17.08.2016. A perusal of the report shows that moneys expended by the OL towards security have been adjusted against the sale of immovable property of the respondent

company, during the pendency of the Company Petition.

2.2. This fact is affirmed by Mr.Atchutha Ramaiah, the learned Official Liquidator, who is present in Court.

2.3. The report also affirms the fact that upon invitation of claims by the OL, three (3) claims were filed. These three (3) were filed by the Commercial Taxed Department ; M/s.Ayappa Cotton Traders ; and M/s.Raj Enterprises, Ahmedhabad.

3. As noted by the Division Bench, the petitioning creditor has also been paid off.

4. The report demonstrates that the respondent company has settled the dues of the Commercial Taxes Department.

4.1. Insofar as the claim of M/s.Ayappa Cotton Traders is concerned, proceedings are pending in the Andhra Pradesh High Court, which are numbered as : A.S.No.442 of 2006.

4.2. As regards Raj Enterprises, the OL reports that the claim was rejected, as it was not supported by necessary documentary proof.

4.3. I have confirmed from the OL as to whether any appeal has been preferred against the rejection of the claim. The OL affirms that no appeal is preferred by M/s.Raj Enterprises.

5. This issue came up for hearing even on

22.07.2016, which is why, I had issued notice to Raj
<https://hcservices.ecourts.gov.in/hcservices/>

Enterprises. Despite service of notice, there is no appearance on behalf of Raj Enterprises.

6. Having regard to the aforesaid, no further orders are called for in the Company Petition.

7. The OL will, accordingly, hand over the custody of all assets and Books of Accounts of the respondent company, which are in his possession, to the authorised representatives of the respondent company.

8. The Company Petition is disposed, in the aforesaid terms.

sd/.R.S.A.J

18.08.2016

//Certified to be a true copy//

Dated this the day of 2016

S.s/05.10.2016

COURT OFFICER

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