

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2017

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THE HONOURABLE MR. **JUSTICE M.M.SUNDRESH**

Company Petition No.126 of 2016

Sandhya Mehta

.. Petitioner

Vs.

M/s.TTL Shipping & Logistics (India)
Private Limited,
No.10, Palayakaran Street,
Kalaimagal Nagar, Ekkaduthangal,
Chennai – 32.

.. Respondent

Petition filed under Sections 433(E), 434(1)(a) and 439(1)(b) of
the Companies Act, 1956 r/w Rule 95 of the Company Court Rules,
1959.

For Petitioner

:

Mr.A.Aridas

For Respondents

:

M/s.M.R.Uma Vijayan
for Secured Creditor
Mr.P.Atchuta Ramaiah
Official Liquidator

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ORDER

Three orders had been passed in the nature of final adjudication by this Court. The first order was passed on 11.07.2016, which was kept in abeyance by the subsequent order dated 29.08.2016 on condition that the balance amount of Rs.14,75,000/- shall be paid. Thereafter, another order was passed on 13.07.2017, which is extracted hereunder:

There was an order dated 29.08.2016 by that order, wherein an earlier order dated 11.07.2016, was kept abeyance on condition that the balance amount of Rs.14,75,000/- shall be paid by the respondent company in four equal monthly installments of Rs.3,68,750/- each and further directions were given with respect to payment each installments. It was also stated that on payment of entire balance of Rs.14,75,000/-, the claim shall stand settled. It was further stated if there is a breach of any of the obligations, the original petitioner was at liberty to revive the company application. A memo has been filed by the petitioner today with respect to the re-payment of loan amount. In the memo it has been stated as follows;

"The petitioner states that she has filed this petition for winding up, as the respondent company failed to repay the loan amount of Rs.18,75,000/-. In the course

of the proceedings of company petition, the respondent company has paid the following amount:

- a) On 26.08.2016 paid sum of Rs.3,00,000/-
- b) On 29.08.2016 paid sum of Rs.1,00,000/-
- c) On 20.09.2016 paid sum of Rs.3,18,750/-
- d) On 20.09.2016 paid sum of Rs. 50,000/-
- e) On 01.12.2016 paid sum of Rs.5,20,000/-
- f) On 11.01.2017 paid sum of Rs.1,50,000/-
- g) On 25.01.2017 paid sum of Rs. 93,125/-
- Total Rs.15,31,875/-**

These payments were also made with delay and out of the set for payment by this Hon'ble Court. This company petition came up on 06.03.2017 and on that day the respondent company undertook to pay Rs.3,43,125/- on or before 03.04.2017 and pleaded extension of time and this Hon'ble Court allowed the respondent company and adjourned the case on 04.04.2017. This was the final payment to be made".

2. It is seen that the respondent had failed to honour the directions of the Court. Consequently, the order dated 11.07.2016, automatically stands revived and in therefore, it is ordered as follows;

3. Accordingly, as prayed, the company petition is

admitted.

- (i) Issue notice to the respondent.
- (ii) Issue notice to Registrar of Companies, Madras.
- (iii) Affix the notice on the Court notice Board and at the premises of the registered office of the respondent.
- (iv) The petitioner is directed to publish the citation in the Tamil Daily "Malai Murasu" and in an English Daily, i.e., the "Indian Express" as also, have the same published in the Tamil Nadu Government Gazette, fixing the date of hearing as 15.08.2017. The petitioner will bear in mind that while having the citation published an advance notice of at least, 14 clear days is given.
- (v) The Official Liquidator, High Court, Madras is appointed as the Provisional Liquidator.
- (vi) The Provisional Liquidator will take possession of all assets, as well as, books, documents and records etc., of the respondent.
- (vii) The respondent is injunction from selling, transferring, alienating or creating any third party interest in its assets.
- (viii) A copy of the petition along with the annexures will be supplied by the learned counsel for the petitioner to the Official Liquidator.
- (ix) The Directors of the respondent shall file their statement of affairs, as mandated under Section 454 of the Act within 21 days from today.
- (x) The Directors shall appear before the Official Liquidator on the date as indicated by him, for having their

statements recorded under Rule 130, of the Company Court (Rules), 1959 (in short Rules).

(xi) In the meanwhile, the counsel for the respondent will furnish the following information to the Court, by way of an affidavit of its Director:-

(i) The location of the registered office of the respondent company.

(ii) The details of its assets; which would include their location.

(iii) The details of its books of accounts, documents and records etc., and place where they are located, in case, they are not available at the registered office.

(xi) (a) A copy of this affidavit shall be supplied to the counsel for the petitioners as well as the Official Liquidator.

(xii) The Official Liquidator will file a status report before the next date of hearing.

(xiii) The petitioner shall deposit a sum of Rs.50,000/- towards initial expenses with the Official Liquidator".

4. It is represented that the condition Rs.50,000/- already deposited. The said statement is recorded. The learned Official Liquidator is to verify the same.

5. Call again on 15.09.2017.

2.The learned Official Liquidator would submit that though the

said order was complied with by him, it appears that it was not complied with by the company. There is no record to show that the company is having any immovable properties. The company was given back the records in possession of the Official Liquidator. Now, the registered office of the company is closed.

3. In view of the above, it is for the petitioner to furnish the information about the immovable properties of the company to the learned Official Liquidator, who in turn, can proceed further pursuant to the order dated 13.07.2017.

4. With the above said observation, the company petition stands closed.

04.10.2017

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M.M.SUNDRESH,J.



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