

HONOURABLE SRI JUSTICE S.V. BHATT

COMPANY APPLICATION No.224 of 2016

In

R.C.C. No.07 of 1994

ORDER :

This application is filed under Section 481 of the Companies Act, 1956 (for short 'the Act') read with Rules 281, 282 and 9 of the Companies (Court) Rules, 1959 (for short 'the Rules').

The Official Liquidator prays for the following relief:

“(i) form an opinion that the liquidator cannot proceed with the winding up and that it is just and reasonable in the circumstances of the case to order for the dissolution of the company.

(ii) dispense with the filing of the Half Yearly Accounts for the period from 01.10.2015 till date.

(iii) dispense with the filing of the Final accounts of the company since no realization have been made in the company in liquidation.

(iv) order that M/s. MCA Chemicals Ltd., be dissolved with effect from the date of the order.

(v) permit the Official Liquidator to dispose of / destroy the books of accounts and records of the company any day after expiry of 5(five) years from the date of order of the dissolution of the company.

(vi) permit the Official Liquidator to meet the cost of this application from out of the funds of the Estate & Establishment Account since the company has no funds to its credit.”

The circumstances relevant for disposal of this application are as follows:

This Court, by order dated 22.11.1996 in R.C.C.No.7 of 1994, ordered M/s. MCA Chemicals Limited (company in liquidation) to be wound up.

The Official Liquidator has filed Annexures A and B along with

this application.

With the assistance of Sri M.Anil Kumar, learned counsel for the Official Liquidator, I have perused the relevant portions, which have bearing on the instant prayers for dissolution of the company in liquidation and to pass such other order or orders under Section 481 of the Act.

The summary of the affidavit and the Annexures is that after the winding up order was passed by this Court, for want of details or statement of affairs of the company in liquidation, the Official Liquidator could not call for claims. Further, from the material available on record, it is clear that the secured creditors of the movable and immovable properties have pursued the remedy of recovery independently and sold the properties. The sale of these properties was confirmed by this Court. Insofar as the financial position is concerned, right from the day the order of winding up was passed till date, the Official Liquidator has not received cash for and on behalf of the company in liquidation. Therefore, in the affidavit filed in support of the application, it is stated that the balance of the company in liquidation has been 'Nil' always. The Official Liquidator has filed affidavit dated 21.12.2015 confirming that the company in liquidation did not have any transaction for the period from 01.04.2015 to 30.09.2015. The affidavit dated 21.12.2015 is taken on record.

From the above, I am satisfied that the Official Liquidator need not continue winding up of the company in liquidation as the winding up serves no purpose and remains a mere statistical formality.

The prayers are accepted and the Company Application is accordingly allowed. The company in liquidation is dissolved. Consequently, R.C.C.No.7 of 1994 is closed.

Date: 02.03.2016
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S.V. BHATT, J