

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM
COMPANY APPLICATION Nos.374 OF 2014 & 1551 OF 2015

IN

COMPANY PETITION No.66 OF 2006

COMMON ORDER:

These two applications are filed by the applicants seeking to recall the winding up order dated 13.07.2012, passed by this Court in C.P.No.66 of 2006.

As both the applicants in both the Company Applications sought similar relief as against the winding up order date 13.07.2012 passed by this Court in C.P.No.66 of 2006, these two applications are being disposed of by way of this Common Order.

The petitioners have reached the settlements with the respondents and though the advertisement was issued, there were no other creditors had approached this Court to recall the winding up order dated 13.07.2012. As a matter of fact, the winding up itself was ordered taking into consideration of the winding up order dated 21.09.2011, passed by this Court on earlier occasion in C.P.No.57 of 2006, which came to be set aside by the Division Bench of this Court by order dated 28.04.2016 in O.S.A.No.55 of 2011. Further as of date, petitioners had arrived at settlement with the creditor/secured creditors of 1) M/s. Cethar Vessels Limited, (U.C.O Bank), 2) Edelweiss Asset Reconstruction Company Limited, 3) M/s. Indian Renewable Energy Development Agency Limited. It may also be noted that the debts and receivables of M/s. Bhagyanagar Solvent Extractions Private Limited (In Liquidation) were purchased by the Edelweiss Asset Reconstruction Company Limited, who in turn through their Advocate Sri E. Madhan Mohana Rao, had submitted that they have no objection for revocation of the winding up of the respondent company. Likewise, the M/s. Indian Renewable Energy Development

Agency Limited vide its letter dated 31.08.2016 had offered settlement with the company and the said fact is confirmed by the learned counsel for M/s. Indian Renewable Energy Development Agency Limited Sri T.Vijaya Kumar Reddy, on instructions. Further, both the applications submitted by the applicants to enable the company to revive back and carry on the business. Taking into consideration of the fact that the company in liquidation is engaged in generation of power for which they had created the infrastructure and considering the fact that it would be in the interest of public to resurrect the company which would add to the National Wealth and considering the fact that Sections 391 to 394 of the Act itself provide for a company to arrive at compromise with its creditors so as to enable the company to avoid winding up and carry on its business, this Court is satisfied with the efforts that are being made by the petitioner as genuine and in such circumstances, the order dated 13.07.2012 passed by this Court in C.P.No.66 of 2006 of the winding up shall be recalled. Further, there is no dispute with respect to the power to recall a winding up order in a given circumstances and the same is no longer *res integra*. A reference may be made to the following citations cited by Sri B. Srinivasa Rao, learned counsel for the petitioner in C.A.No.374 of 2014, and Sri Ch. Ramesh Babu, representing for Sri T. Balaji in C.A.No.1551 of 2015 as follows:

1. **Sudarsan Chits (I) Limited vs. G. Sukumaran Pillai and others¹**
2. **Shreeji Concast Limited vs. Shreeji Oxygen P. Limited²**
3. **G.T. Swamy vs. Goodluck Agencies³**
4. **M/s. Rishabh Agro Industries Limited vs. P.N.B. Capital Services Limited⁴**
5. **Koteswara Raju Dantuluri vs. Garvee Granites Limited and others⁵**

¹ AIR 1984 Supreme Court 1579

² Laws(GJH)-2006-9-83 CC-2007-138-7-717.

³ LAWS(KAR)-1988-6-59

⁴ AIR 2000 Supreme Court 1583

Accordingly, both the Company Applications are allowed ordering to recall the winding up order dated 13.07.2012, passed by this Court in C.P.No.66 of 2006. However, the petitioners as well as the respondents companies shall intimate the Official Liquidator as well as the Registrar of Companies about the passing of this order by sending a copy of this order within a period of four weeks from the date of receipt of copy of this order.

Miscellaneous Petitions, if any, pending in these Company Applications, shall also stand closed.

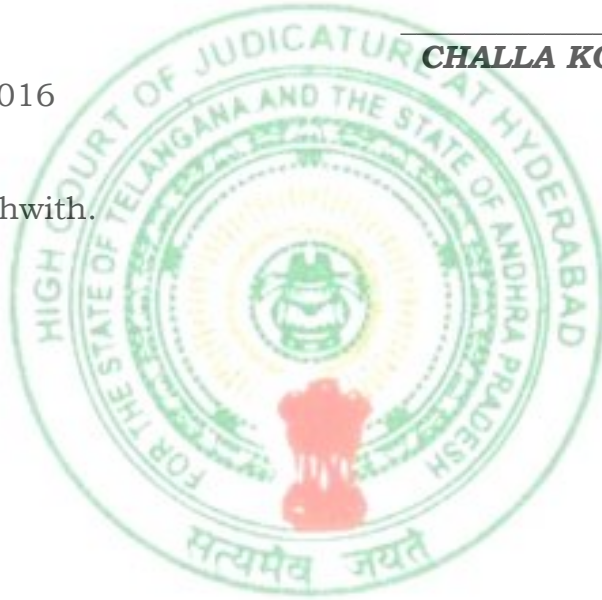
Date:22.09.2016

Note:

Issue CC forthwith.

B/o.

Gk.



CHALLA KODANDA RAM,J

⁵ 2002(3) ALD 131 (DB)

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