

HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA
O.S.A. No.49 OF 2015

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JUDGMENT: (Per Hon'ble Sri Justice G. Chandraiah)

M/s. R.C.C. (Sales) Private Limited preferred the instant appeal, aggrieved by the order, dated 21-04-2015, passed by a Single Judge of this Court in Company Petition No.62 of 2013 filed by the respondent herein viz., M/s. Pravesha Industries (Private) Limited.

2. M/s. Pravesha Industries Private Limited, a company incorporated under the Companies Act, 1956, the respondent herein, has filed the aforesaid company petition under Sections 433 (e) and 434 of the Companies Act, 1956 (for short 'the Act') to pass an order for winding up the appellant company viz., M/s. R.C.C. (Sales) Private Limited for non-payment of debt due to it.

3. The single Judge of this Court, by order, dated 21-04-2015, made the following order in Company Petition No.62 of 2013.

“ In the light of the above discussion, the respondent is ordered to be wound up. The Official Liquidator attached to this Court is appointed as the Liquidator for the respondent. He is directed to take over the assets and liabilities of the respondent Company. The petitioner shall deposit a sum of Rs.25,000/-(Rupees Twenty Five Thousand only) with the Official Liquidator, towards initial expenses within one month from today. The petitioner shall also carry out publication of winding up of the

respondent Company in two newspapers, namely, Economic Times (English Daily) and Andhra Jyothi (Telugu Daily), having circulation in the State of Telangana within 30 days from today. The petitioner shall also furnish certified copy of this order to the Registrar of Companies within 30 days from the date of receipt of this order.”

4. Aggrieved of the same, the respondent therein presented the instant appeal. Along with the appeal, the respondent filed application Nos.966 and 1183 of 2015 seeking to condone the delay of 66 days in filing the appeal, and to suspend the operation of the order of the single Judge, respectively. After issuing notice, this Court, by order, dated 30-09-2015, allowed the application No.966 of 2015 condoning the delay of 66 days in preferring the appeal on terms. The appellant has complied with the said terms.

5. Thereafter, the matter adjourned from time to time, and after hearing both the counsel appearing for either side, this Court passed the following order on 09-12-2015:

“After hearing the learned senior counsel on behalf of the counsel for the appellant and also Sri M. Laxminarasimham, learned counsel for the respondent and taking into account and consideration the fact that the principal amount of Rs.14.36 lakhs has since been cleared as the cheque issued by the appellant – company has been honoured, we have indicated to the learned senior counsel to liquidate the liability with regard to the TDS deductions, which have been made, but not remitted to the Income Tax Department and also to defray the expenditure incurred by the respondent – company for

advertising the admission of the company petition and the deposit made by it pursuant to the order passed by the learned company Judge by making payment to the official liquidator. Learned senior counsel seeks two (2) weeks time to address the concerns of the respondent – company.

Adjourned by two (2) weeks.

Option for negotiations to be carried out by and between the parties, is preserved.”

6. Today, when the matter listed under the caption ‘admission’ is called, the learned counsel on either side has submitted that the matter has been settled amicably between the parties out of Court for Rs.20,36,790/- (Rupees twenty lakhs thirty six thousand seven hundred and ninety only) to be paid by the appellant herein to the respondent herein. To that effect, they have also filed memorandum of compromise, dated 14-03-2016, wherein it is mentioned that the appellant herein has paid the agreed amount by way of five separate cheques to the respondent as mentioned therein, and requests to dispose of the appeal in terms of the said memorandum of compromise.

7. Recording the same, the appeal is disposed of in terms of the said memorandum of compromise, which shall form part of the record. No order as to costs.

8. As a sequel thereto, miscellaneous applications, if any, pending in this appeal, stand disposed of.

G. CHANDRAIAH, J

A. SHANKAR NARAYANA, J

March 22, 2016.

Mgr