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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.PET. 324/2014**

CLASSIC SWITCHGEARS & CONTROL PRIVATE LIMITED

..... Petitioner

Through Mr. Hitendra K. Nahata, Mr. Vijender Pal
Singh and Mr. Jasvir Singh, Advocates.

versus

A-1 DESIGN & CONSTRUCTION PRIVATE LIMITED

..... Respondent

Through Mr. Manmohan Sharma, Mr. Jitender Jha and
Beenu and Shariq Iqbal, Advocates for respondent
/ applicant.
Mr. Rajiv Bahl, Advocate for O. L.

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

ORDER

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12.05.2016

CP No.324/2014 & CA No.1554/2016

This petition seeking winding up of A-1 DESIGN & CONSTRUCTION PRIVATE LIMITED was predicated on the alleged non-payment of a principal amount of Rs.18,32,627/- despite service of a notice of winding up on the registered office of the company; and on 23.03.2016, since there was no traverse filed by the respondent, the petition was admitted and the Official Liquidator attached to this Court was appointed as the

Provisional Liquidator of the company. Further directions for publication of citations as well as to take over the assets of the company were also issued. Pursuant thereto, the Official Liquidator attached to this Court sealed two premises, i.e., I-28, Lajpat Nagar-II, New Delhi 110024 and E-98, First Floor, Lajpat Nagar-II, New Delhi 110024.

Thereafter two applications were moved, being CA No.1409/2016 by Sh. Vivek Khanna and CA No.1554/2016 on behalf of Smt. Shikha Khanna, wife of Sh. Vivek Khanna; both of whom are directors of the respondent company; seeking de-sealing of the aforesaid premises.

At the same time, on 02.05.2016, during the course of hearing of CA No.1554/2016, counsel for the company stated that the respondent shall deposit the aforesaid principal amount of Rs.18,32,627/- with the Registrar General of this Court.

The office reports that the said amount has been duly deposited.

Counsel for the company further states that he has deposited this amount without prejudice to the stand of the respondent on merits, and that his client has substantial defence to offer with regard to the claim raised in the notice of winding up; and further that his client is willing to keep this amount with the Registrar General of this Court, subject, of course, to orders passed by this Court and also any other civil court having jurisdiction in the matter.

Counsel for the petitioner states that under the circumstances, he does not wish to press this petition any further provided the amount deposited with the Registrar General of this Court is available for attachment to any civil court of appropriate jurisdiction where the petitioner intends to institute

a civil action.

Under the circumstances, the Registrar General of this Court is directed to hold the aforesaid amount deposited by the respondent in a Fixed Deposit for a period of 15 weeks from today and the same shall be subject to any further orders that may be issued by any court of competent jurisdiction in that regard. In case there is no such orders or directions forthcoming from a court of competent jurisdiction, the said amount may thereafter be returned along with any interest accrued thereon, to the respondent company after completion of the necessary formalities.

Further, the orders admitting the petition passed by this Court on 23.03.2016 stand recalled. The Official Liquidator shall de-seal the premises bearing No.I-28, Lajpat Nagar-II, New Delhi 110024, after completion of all the necessary formalities.

Counsel for the Official Liquidator states, on instructions, that the necessary intimation with regard to admission of this petition on 23.03.2016 and appointment of the Official Liquidator is yet to be despatched.

Looking to the unique circumstances, and in view of the fact that the said orders stand recalled, to my mind, there is now no need for the said intimation to be despatched.

Counsel for the Official Liquidator states that looking to the number of steps taken and visits of the Official Liquidator and his team to seal the premises etc., certain costs have been incurred which are tentatively quantified at Rs.50,000/- and same may be recoverable from the applicants.

Counsel for the applicants states, on instructions, that he does not wish to contest this aspect of the matter and that the amount shall

be deposited with the Official Liquidator within two days from today who shall thereafter deposit the same in the Common Pool Fund maintained by him. The aforesaid premises be de-sealed by the Official Liquidator, as stated above, within two days of the deposit of the costs.

The petition, along with CA No.1554/2016, stands disposed off. The next date of 30.08.2016 stands cancelled.

A copy of this order be given *dasti* under the signatures of the Court Master.

CA No.1409/2016

This application has been moved by Mr. Vivek Khanna praying that the premises bearing No.E-98, First Floor, Lajpat Nagar-II, New Delhi 110024 that has been sealed by the Official Liquidator on 12.04.2016 in the aforesaid matter, be de-sealed.

Reply to this application has been filed by the Official Liquidator controverting the facts, and specially the allegations made with regard to the action taken by his officials in sealing the said premises.

Counsel for the applicant states that he is instructed by his client to withdraw all allegations made against the officials of the Official Liquidator in this application, and confines his prayer to the de-sealing of the aforesaid premises on the sole ground that the respondent company has deposited a sum of Rs.18,36,627/-, being the principal amount mentioned in the notice of winding up as due and payable to the petitioner, with the Registrar General of this Court, thereby securing the amount adequately, without prejudice to the merits of the respondent's case, subject, of course, to further orders that may be passed by this Court in this behalf.

Counsel for the Official Liquidator states that under the circumstances, and in view of the orders passed today in the main petition, he does not have any objection to the same.

It is ordered accordingly.

Consequently, the aforesaid premises bearing No.-E-98, 1st floor, Lajpat Nagar-II, New Delhi 110024, be de-sealed and possession thereof be handed over by the Official Liquidator to the authorized representative of the applicant after completion of all necessary formalities.

This application is disposed off.

SUDERSHAN KUMAR MISRA, J

MAY 12, 2016
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