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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CO.APP. 81/2013 and CM Nos. 19460/2013, 19463/2013, 5129/2014
and 1004/2016

TULIP TELECOM

..... Appellant

Through: Ms Diya Kapur and Mr Harikrishna
Pramod, Advs.

versus

AUSTRALIA NEW ZEALAND BANKING GROUP LIMITED &
ANR

..... Respondents

Through: Mr. N. Ganpathy, Mr Manpreet Lamba
and Mr.Rushil Obroi, Advs. for R-1.

Mr.Atul Sharma and Ms.Renuka Iyer, Advocates
for EARCL

Dr. Ramesh Kumar, AOL

And

+ CO.APP. 9/2015 and CM Nos. 9146/2015 and 1003/2016

TULIP TELECOM LIMITED

..... Appellant

Through: Ms Diya Kapur and Mr Harikrishna
Pramod, Advs.

versus

DEUTSCHE TRUSTEE COMPANY LIMITED

..... Respondent

Through: Mr L.K. Bhushan and Mr Anirudh Arun
Kumar, Advs. for R-1

Mr.Atul Sharma and Ms.Renuka Iyer, Advocates
for EARCL

Mr Hare Ram Tiwary, Adv. for LIC

Dr. Ramesh Kumar, AOL

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **17.03.2016**

Both the appeals are directed against an order admitting the winding up petition and an order of final winding up. The appeals were entertained and heard—as the previous order shows on the previous dates of hearing. By order dated 17.11.2015, this Court had directed stay of final winding up of the appellant-company even while requiring it to inform the Company Judge about efforts made for discharge of its liabilities.

The counsel for the appellant submits that since the matter is now under active consideration by the learned Company Court—which is seized of the winding up proceedings—and efforts to settle the dues of various creditors are under consideration, the present challenge to the admitting of winding up proceedings and directions towards final winding up, in these appeals would not be pressed. However, it is submitted that since the judgment in the final winding up proceedings would have a drastic and immediate consequences, the stay of final winding up of the appellant company should be continued to facilitate the process of settlement of the dues of its creditors.

Counsel for the petitioner before the Company Court—arrayed as respondent in these proceedings—submits that the Court should vacate the interim order since the main appeal is proposed to be disposed of. He also urges that interim order of 17.11.2015 was made despite the appellant's knowledge that there was no final settlement

between it and M/s Edelweiss Asset Reconstruction Company Limited (EARC). Counsel for M/s EARCL submits that the order of 17.11.2015 in so far as it recorded that there is a settlement between the appellant was incorrectly recorded and in its submission—all that was stated was that the negotiations towards settlement were at an advanced stage. He also relies upon the averments made in CA No. 1003/2016 and 1004/2016 as well as the statement made in Court on 03.02.2016 in this regard.

Having considered the submissions of the parties, this Court is of the opinion that since the admission of the winding up proceedings have not been now pressed, the question of stay of final winding up ordinarily would not arise. However, taking into account the previous order which show that the Company in liquidation is in negotiations with its creditors and that process is also under the supervision of the Company Court, it would be in the fitness of things that the interim order is continued for some time. In these circumstances, the order of the Court dated 17.11.2015 staying final winding up of the appellant company shall bind the parties till 31.07.2016. Having regard to the proposals noted by the parties and further developments, the learned Single Judge shall decide as to whether to continue with the stay order, either conditionally or unconditionally or modify/vary it or vacate it altogether. It is clarified that the parties are at liberty to make appropriate submissions in that regard and the learned Single Judge is not constrained in any manner from deciding the issue and proceeding with final winding up of the Company after 31.07.2016, having regard to all facts.

Both the appeals along with the pending applications are disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 17, 2016

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