IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

OFFICIAL LIQUIDATOR REPORT NO. 21 OF 2017
IN
COMPANY PETITION NO. 244 OF 2012

In the matter of Companies Act, I of 1956;

And

In the matter of M/s. Sunearth Ceramics Ltd.
(in Liqn.)

Asset Reconstruction Company (India) Ltd. .. Petitioner

Ms. Yogini D. Chauhan, Dy. Official Liquidator present
Mr. Ramesh Saraogi for Seazone Granito Pvt. Ltd.
Mr. F. Sayyed i/b M.K. Ambalal for the petitioner
Mr. Jamshed Ansari for Ex-Director

CORAM : R.D. DHANUKA, J.
DATED : 21st APRIL, 2017.

P.C.

1. Learned Official Liquidator seeks amendment in the name of licensee mentioned in prayer clause (b) as well as consequential amendment in the Report. The name of licensee "M/s. Sea Horse Ceramics Ltd." mentioned in prayer clause (b) as well as in other paragraphs of the report, be substituted with "Seazone Granito Pvt. Ltd." Amendment to be carried out within one week from today.

2. At this stage, the learned Official Liquidator seeks directions against M/s. Seazone Granito Pvt. Ltd. to deposit the rent in respect of the property in occupation of the said company, which belongs to the company in liquidation.

3. Learned Counsel for the petitioner invited my attention to the order dated 7th October, 2013 passed by this Court recording a statement made by the Managing Director of Seazone Granito Pvt. Ltd. that it would handover vacant and peaceful possession of the factory premises to the successful bidder within four months from the date of this Court confirming the sale of the said property in favour of the successful bidder.

4. Mr. Saraogi, learned Counsel for the said licensee, on instructions from the Managing Director, who is present in Court states that his client will comply with the said undertaking made to this Court on 7th October, 2014. He submitted that his client has not paid any rent to the company in liquidation or its Directors in view of his clients having substantial claim against the company in liquidation.

5. In my view, the claim if any made by the occupant can be

independently adjudicated upon by the Official Liquidator and cannot be mixed up with the rent / compensation payable by the occupant to the company in liquidation. It is the case of the occupant that it has been occupying the said premises since November, 2011. It is undisputed that the company has been declared as wound up by an order dated 11th February, 2016 passed by this Court. However, the occupant continues to occupy the said premises without any payment of compensation.

6. In the interest of justice, it would be appropriate if the said occupant is directed to deposit the rent / compensation with the Official Liquidator for the period from 1st March, 2016 till date within four weeks from today.

7. At this stage, Mr. Saraogi, learned Counsel for the occupant, on instructions from the Managing Director of the said company, who is present in the Court, undertakes that his client would deposit the rent from 1st March, 2016 till 30th June, 2017 on or before 30th June, 2017. Undertaking is accepted. It is made clear that if the said occupant does not comply with the undertaking given to this Court and does not deposit the rent / compensation within the time granted by this Court,

the Official Liquidator to take forcible possession of the said premises without further reference to this Court. The occupant shall pay the amount at the same rate for the month of July, 2017 onwards till the possession of the said property is handed over by the occupant to the official liquidator in compliance with the order dated 7th October, 2011.

8. Learned Counsel for the Ex-Directors seeks two week's extension to file statement of affairs with the Official Liquidator. The Ex-Directors shall file statement of affairs in the office of the Official Liquidator within two weeks from today. In the event of the default, this Court will consider to grant prayer clause (a) of the Official Liquidator's Report. The secured creditors can exercise their rights, if any, for taking of possession of the immovable property and sale thereof in accordance with law.

9. In so far as prayer clauses (c) and (d) are concerned, the said prayers are allowed. The secured creditor i.e. the ARCIL is directed to pay publication charges of advertisement to the Official Liquidator within 2 weeks from the date of communication of this order to the Official Liquidator. It is made clear that if any funds are available with the Official Liquidator in the account of the company in liquidation, the

ARCIL would be at liberty to seek reimbursement of the amount paid towards advertisement.

10. Official Liquidator Report is disposed of in the aforesaid terms.

(R.D. DHANUKA, J.)