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

+ **CO.PET. 315/2011**

M/S PIDILITE INDUSTRIES LTD

..... Petitioner

Through: Mr. Sachin Kumar Sharma, Authorized
Representative for the Petitioner

versus

M/S SUPERB STAR PROMOTERS PVT LTD

..... Respondent

Through: Mr. Anil Grover, Advocate with Ms.
Noopur Singhal, Mr. Mishal Vij and Mr.
Satish Kumar, Advocates
Mr. Rajiv Bahl, Advocate for the Official
Liquidator

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

09.01.2017

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CO.APPL.4913/2016

The present application under Section 518(2) read with Section 392 of the Companies Act, 1956 read with Rules 9 and 79 of the Companies (Court) Rules, 1959, filed on behalf of the applicant/respondent-company in provisional liquidation, prays as follows:-

- “a) direct the Ld. Provisional Official Liquidator to de-seal the Corporate Office situated at Flat No.406, Janpratinidhi Apartments, Sector 28, Gurgaon, Haryana;
- b) set-aside the publication done under the order dated 7.8.2012;
- c) re-call the order dated 7.8.2012 vide which publication of citation was ordered;
- d) re-call the order dated 13.8.2014 vide which Ld. Provisional Official Liquidator was appointed in the present matter;
- e) direct the Ld. Provisional Official Liquidator to release the control of PAN: AALCS 5463K by de-linking it from its office; and
- f) Any other or further order(s) which this Hon'ble Court may deem fit and proper kindly be passed in favour of applicant/respondent company in the interest of justice.”

Mr. Rajiv Bahl, learned counsel appearing on behalf of the Official Liquidator fairly does not oppose the present application.

By way of order dated 07.08.2012, on account of non-appearance on behalf of respondent-company, despite service of notice, the averments made in the accompanying petition being CO.PET.315/2015, were deemed to be admitted. Further, directions were issued for publication of citations, as well as, publication in the official Gazette.

Subsequently, by way of order dated 13.08.2014, the said company petition was admitted and the Official Liquidator, attached to this Court, was appointed as the Provisional Liquidator of the respondent-company and the respondent-company was restrained from dealing with its movable and immovable assets and from operating its bank accounts. Further, the operation of the order dated 13.08.2014 be deferred for a period of 08 weeks to enable the respondent-company to settle the dues of the petitioner.

A perusal of order dated 13.11.2014 reveals that a statement was made on behalf of the Official Liquidator that since no intimation was received from the petitioner that the respondent-company had settled its dues, the Official Liquidator took steps to seal the corporate office of the respondent-company at 406, Sector-28, Janpratinidhi Apartments, Gurgaon, Haryana.

However, since the order dated 13.08.2014 had not been communicated to the respondent-company, the petitioner was directed to take fresh steps for service of the said order. Further, steps by the Official Liquidator in furtherance to the order dated 13.08.2014 were deferred by the Court.

The respondent-company has subsequently entered into a settlement agreement with the petitioner-company and have paid the latter a sum of Rs.7,15,000/- towards full and final settlement by way of a cheque bearing No.000037 dated 20.11.2016, drawn on HDFC Bank, HUDA Market, Sector-40, Gurgaon, Haryana.

Mr. Sachin Kumar Sharma, Authorized Representative of the petitioner-company, who is present in person in Court today, verifies the factum of the settlement agreement entered into between the parties herein and acknowledges receipt of the aforesaid cheque.

It is, further observed that a sum of Rs.25,000/- towards expenses incurred by the Provisional Liquidator has been deposited by way of demand draft No.001044 dated 02.12.2016, drawn on HDFC Bank, in favour of the Official Liquidator attached to this Court. Mr. Rajiv Bahl, learned counsel appearing on behalf of the Official Liquidator acknowledges receipt thereof subject to encashment.

It is in this backdrop, that the prayers extracted hereinabove have been made by the respondent-company.

After hearing the parties and in view of the foregoing, in my view the reliefs prayed for in the present application have to be granted. Accordingly, the said order dated 07.08.2016, vide which publication of citations in the newspapers "The Indian Express" (English Edition) and "Jansatta" (Hindi Edition) as well as in the Official Gazette was ordered, is set aside and recalled. Further, the order dated 13.08.2014, admitting the accompanying company petition and appointing the Official Liquidator attached to this Court as the Provisional Liquidator of the respondent-company is also set aside and recalled.

The Official Liquidator is directed to de-seal the subject premises i.e. the corporate office of the respondent-company in liquidation, situated at Flat No.406, Janpratinidhi Apartments, Sector-28, Gurgaon, Haryana and hand over possession thereof to the respondent-company, forthwith. Further, the Official Liquidator is also directed to inform all the requisite statutory authorities of the orders passed by this Court today.

With the above directions, the application is allowed and disposed of accordingly.

CO.PET.315/2011, CO.APPL.2554/2016 & 4347/2016

Mr. Sachin Kumar Sharma, Authorized Representative of the respondent-company, who is present in person in Court today, seeks leave to withdraw this petition, in view of the settlement arrived at between the parties and the payment received by the petitioner-company.

Leave granted.

The petition is dismissed as withdrawn and disposed of accordingly.
Pending applications also stand disposed of.

Dasti.

SIDDHARTH MRIDUL, J

JANUARY 09, 2017

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