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

% **Reserved on: 06th July, 2017**
Pronounced on: 17th July, 2017

\+ **CO.PET. No.394/2013**

DIMENSION INVESTMENT & SECURITIES LTD ..... Petitioner

Through : None

versus

UDAY DUTT ASSOCIATES (P) LTD ..... Respondent

Through : Mr.Kanwal Chaudhary, Advocate for Official Liquidator.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. This petition is under section 433(e) of the Companies Act, 1956 (hereinafter as 'the Act') by the petitioner through the Official Liquidator in the capacity of a creditor of M/s Uday Dutt Associates Private Limited (hereinafter as 'respondent company') as was permitted by this Court vide order dated 30.08.2012 in Company Petition No.15/2010.

2. The respondent company was incorporated on 18.04.2002, under the provisions of the Act with the Registrar of Companies, NCT of Delhi and Haryana having its registered office at 515, Mukim Pura, Sabzi Mandi, Delhi with an authorized Share Capital of ₹5,00,000/- and the paid up share capital to be ₹1,12,000.

3. During the course of investigation in Company Petition No.15/2010, the Serious Fraud Investigation Office (SFIO) found that

Uday Dutt, promoter/director of M/s.Dimension Investment & Securities Ltd (petitioner herein) had transferred an amount of ₹8,60,00,000/- to M/s Uday Dutt Associates (P) Ltd, the respondent herein under frivolous accounts/heads. There was no explanation by the respondent company for such amount. The said amount is liable to recovered from the respondent company which is an associate company of the petitioner.

4. Hence, in Company Petition No.15/2010 *Regal Tradelinks Pvt Ltd vs. M/s Dimension Investment & Securities Limited*, vide its order dated 30.08.2012 this Court has permitted the Official Liquidator to file the winding up petitions against the associate companies of M/s Dimension Investment and Securities Limited.

5. The Official Liquidator obtained the record of the respondent company from the Registrar of Companies such as Form No.23AC auditor's report and balance sheet etc.

6. The office of the Official Liquidator issued the statutory notice dated 26.09.2012 to the respondent company and its director calling upon them to return the said amount, and it duly served at the registered office of respondent company. The notice is neither replied nor any explanation given hence there is no defence to the averments made therein.

7. Thus, it is a fit case where the winding up order can be passed against the respondent company in terms of the provision of Section 433 (e) of the Act and that it would be against the interest of public at large in case the respondent company is allowed to retain the aforesaid amount unauthorisedly.

8. The respondent had failed to tender any explanation either to the SFIO or to this Court as to why the said amount was received. Despite the petitioner having served the respondent company and its director with the statutory notices, it failed and neglected to respond to the same. None is appearing either on behalf of the respondent company in these proceedings.

9. Keeping in view the aforesaid facts, this Court is of the opinion that there is no chance of rehabilitation of the company in liquidation. Accordingly, respondent – company is directed to be finally wound up and the Provisional Liquidator appointed by this Court vide order dated 29.10.2013 is hereby appointed as its Final Liquidator.

10. Citations are directed to be published in '*Statesman*' (English Edition) and '*Jansatta*' (Hindi Edition).

11. A copy of this order be filed by the Official Liquidator with the Registrar of Companies within the statutory period, as provided for in the Act. Let a fresh status report be filed.

12. The petition is accordingly disposed of.

YOGESH KHANNA, J

JULY 17, 2017

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