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

% **Reserved on: 12th September, 2017**
Pronounced on: 15th September, 2017

\+ **<u>CO.PET. No.50/2017</u>**

IN THE MATTER OF EBC (INDIA) COMPANY PRIVATE LIMITED (IN VOL. LIQN.)
..... Petitioner

Through Mr.D.Bhattacharya, Standing Counsel for Official Liquidator.

versus

....
..... Respondent

Through None

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

<u>YOGESH KHANNA, J.</u>

1. This is a petition under section 497(6) of the Companies Act, 1956 (hereinafter as 'the Act') by the Official Liquidator, seeking voluntary winding up of EBC (India) Private Limited (hereinafter as 'the company').

2. The company was incorporated on 10.05.1996 with registration no.135379 (CIN-U00000DL2001PLC109766) under the provisions of the companies Act, 1956 with the registrar of the companies, Mumbai under the name and style of "EBC (India) Company Private Limited", with the authorized share capital of the company ₹40,35,00,000/- divided into 40,350,000 equity share of ₹ 10/- each. Subsequently registered

office of the company was shifted from State of Maharashtra to National Capital Territory of Delhi & Haryana with effect from 22.02.2001. The present registered office of the company is situated at S-405(LGF), Greater Kailash-II, New Delhi-110048.

3. The paid up capital of the company as per balance sheet as on 30.09.2013 is ₹331,824,900/- equity share of ₹ 10/- each.

4. The company was incorporated for the purposes mentioned in sub-para Nos.1 to 3 of para No.5 of petition. Mr.Subir Dasgupta and Mr.Brijesh Thakkar were the promoters, directors and subscribers of one share each as per the subscription clause of Memorandum of Association and Articles of Association of the company.

5. At the time of members voluntary winding up of the company, M/s Energizer International Inc and M/s Energizer Singapore Pte. Ltd were two share holders having shares to the amount of ₹33,18,24,900/-. At the time of passing resolution of voluntary winding up Mr.Lassina Coulibaly and Mr.Lai Hing Sandra Li were the directors. The financial position of the company has been disclosed in the audited balance sheets as on 30.09.2013 annexed with the petition.

6. The Board Meeting of the Board of Directors of the company was held on 31.03.2014 at 11:00 PM at the registered office of company and Ms.Kiran Sharma was appointed as liquidator of the company without any remuneration. The declaration of solvency was executed and approved by the board of directors in their meeting held on 31.03.2014 and filed with the registrar of companies in Form No.149 as prescribed

under Rule 313 of the Companies (Court) Rules, 1959 wherein full enquiry into the affairs of this company was done and Board had formed opinion that this company will be able to pay its debt in full within a period of three years from the date of commencement of winding up and appended a statement of the company's assets and liabilities as at 30.09.2013. The Extra-Ordinary General meeting of the company was convened on 16.04.2014 at its present registered office and a special resolution was passed to wind up the affairs of the company under Section 484(i)(b) of the Companies Act and for the appointment of the Liquidators under Section 484(1) & 488 and other applicable provisions of the Companies Act, 1956.

7. The Voluntary Liquidator has given notice of her appointment under Rule 315 of the Companies (Court) Rule 1959 in Form 151 published in Official Gazette on 11.10.2014 and filed Form No. 152 for the appointment before the Registrar of Companies NCT, Delhi & Haryana on 09.06.2014.

8. As per section 485(1) of the Act the Liquidator has published a notification in the newspaper namely "Business Standard" in English and in "Business Standard" in Hindi on 10.11.2014 in respect to Extra Ordinary General Meeting on 16.04.2014 and the same has also been published in "The Official Gazette of India" on 11.10.2014.

9. Pursuant to the provisions of the Section 497(1) of the Act, the Liquidator has published a Notification in daily Newspaper namely "Business Standard" in Hindi and in "Business Standard" in English on

10.09.2014 and 11.09.2014 respectively and also in the Govt. Gazette published for final meeting on 11.10.2014.

10. Pursuant to the provisions of Section 497 of the Companies Act, 1956, the Annual General Meeting was held on 05.06.2014 and Liquidator has filed accounts of the Company in Form No. 156 and 157 as prescribed under Rule 329 & 331 of the Companies (Court) Rules, 1959 for the period from 16.04.2014 to 05.06.2014 before the Registrar of the Companies, NCT, Delhi & Haryana, New Delhi on 09.10.2014 and 15.09.2014 respectively to the Official Liquidator within prescribed period.

11. The Official liquidator inquired from Income Tax Department vide letter dated 22.01.2016 regarding any outstanding dues against the subject Company. In response to that Income Tax Department informed that there is no outstanding demand against the subject company vide no objection certificate dated 08.01.2016.

12. The Voluntary Liquidator Ms. Kiran Sharma has filed an affidavit dated 07.08.2015 declaring that "*I had made full enquiry into the affairs of the company and of the opinion that the company has no dues to the government*". Both the Directors have also filed the affidavit dated 02.04.2014 to the office of Official Liquidator.

13. The Voluntary Liquidator has also filed an indemnity bond dated 07.08.2015 to indemnify to all departments of the Central Government of India, all departments of State Governments, all local authorities and all concerned parties from all the losses, damages, dues on any account,

shortage, taxes or any other liabilities even those which may arise in future in relation to Company.

14. The Registrar of the Companies NCT of Delhi &Haryana, New Delhi vide his letter no.ROC/OL/EBC/13538/dated 17.03.2015 has stated that the company have filed all over due documents including form 156 for final dissolution of the Company in voluntary liquidation

15. Upon scrutiny of record submitted by the voluntary liquidator with the official liquidator, Delhi attached to this Court, he is satisfied that the necessary compliance of section 497 and other relevant of the Companies Act, 1956 as applicable thereto have been made. The affairs of the company have not been conducted in manner prejudicial to the interest of its members and thus the company may be deemed to have dissolved from the date of submission of this petition to this Court.

16. The petition for winding up of the affairs of the petitioner Company was earlier listed for hearing on 02.02.2017. The petition was withdrawn with a liberty to file afresh.

17. From the scrutiny of the records submitted by the voluntary liquidator; the Official Liquidator attached to this Court is satisfied that the necessary compliances have been made and the affairs of the Company have not been conducted in any manner prejudicial to the interest of its members and public at large. All relevant documents are annexed to the petition.

18. In the circumstances, the petition is taken on record and the company EBC (India) Private Limited is ordered to be wound up and dissolved from the date of filing of this petition.

19. Necessary intimation be sent to the Registrar of Companies by the Official Liquidator within the statutory period, as provided for in the Act.

20. The petition is accordingly disposed of.

YOGESH KHANNA, J

SEPTEMBER 15, 2017
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