

COMPANY PETITION NO.536 OF 2014

COMPANY PETITION NO.8 OF 2015

WITH
OFFICIAL LIQUIDATOR'S REPORT NO.142 OF 2015
WITH
COMPANY PETITION NO.150 OF 2015
WITH
COMPANY PETITION NO.153 OF 2015
WITH
COMPANY PETITION NO.171 OF 2015
WITH
COMPANY PETITION NO.189 OF 2015
WITH
COMPANY PETITION NO.237 OF 2015
WITH
COMPANY PETITION NO.290 OF 2015
WITH
COMPANY PETITION NO.414 OF 2015
WITH
COMPANY PETITION NO.449 OF 2015
WITH
COMPANY PETITION NO.486 OF 2015
WITH
COMPANY PETITION NO.530 OF 2015
WITH
COMPANY APPLICATION (L) NO.533 OF 2015
IN
COMPANY PETITION NO.159 OF 2014
WITH
COMPANY PETITION NO.627 OF 2015
WITH
COMPANY PETITION NO.730 OF 2015
WITH
COMPANY PETITION NO.740 OF 2015
WITH
COMPANY PETITION NO.794 OF 2015
WITH
COMPANY PETITION NO.812 OF 2015
WITH
COMPANY PETITION NO.1131 OF 2015
WITH
COMPANY PETITION (L) NO.1209 OF 2015
WITH
COMPANY PETITION NO.262 OF 2016
WITH

COMPANY APPLICATION NO.585 OF 2016
IN
COMPANY PETITION NO.159 OF 2014
WITH
COMPANY APPLICATION NO.246 OF 2017
IN
COMPANY PETITION NO.984 OF 2014

Mr. Nitin Thakkar, senior advocate a/w. Ms. Jyoti Singh and Mr. Vishwas Deo i/b. Phoenix Legal for applicant in CAL/5/2018 and for Insolvency Resolution Professional of respondent company.

Mr. Rahul Sarda a/w. Mr. H.K. Sudhakara i/b. Prompt Legal for petitioner in CP/536/2014.

Mr. Shailesh Dalal i/b. Dalal and Co. for petitioner in CP/75/2014, CP/171/2015, CP/414/2015.

Ms. H.D. Kapadia i/b. Ms. Kalyani G. Parmar for petitioner in CP/101/2014, CP/201/2014, CP/279/2014, CP/530/2015 and CP/730/2015.

Ms. Swapnila Rane i/b. Ms. Vanita Kakar for petitioner in CP/159/2014.

Mr. Shubhabrata Chakroborti a/w. Mr. Aniruddh Gambhi i/b. Juris Corp for petitioner in CP/334/2014.

Mr. Sumeet Vankadkar i/b. Mr. A.M. Saraogi for petitioner in CP/634/2014, CP/486/2015 and CP/794/2015.

Mr. Vijay B. Dighe i/b. Mr. Nitesh Vishwanath Bhutekar for petitioner in CP/792/2014.

Ms. Pooja Rathod i/b. Mr. Anil Agarwal for petitioner in CP/984/2014 and for applicant in CA/246/2017.

Mr. Bhupendra Parekh for petitioner in CP/237/2015.

Mr. Darshan Ashar a/w. Mr. Akshay Udeshi, Mr. Aditya Bhat and Mr. Suabbir Jariwal i/b. M/s. Sanjay Udeshi and Co. for petitioner in CP/812/2015.

Ms. Megha Chandra a/w. Mr. Sachin Chowdhari i/b. Dharam and Co. for petitioner in CP/1131/2015.

Mr. Manish Bohra i/b. A.S. Khan and Associates for petitioner in CP/262/2016.

CORAM : K.R.SHRIRAM, J.

DATE : 20th MARCH, 2018

PC.:

COMPANY APPLICATION (L) NO.5 OF 2018

1 Heard Mr. Thakkar, senior counsel appearing for applicant and

Mr. Sarda, counsel appearing for original petitioner.

2 The application basically is to recall an order dated 30th October, 2017 read with order dated 29th November, 2017 by which the company – Hindustan Dorr Oliver Limited (said company) was ordered to be wound up.

3 The application is taken out by the Insolvency Resolution Professional (IRP), who was appointed pursuant to an order dated 21st April, 2017 passed by the National Company Law Tribunal, Mumbai. Mr. Thakkar states that pursuant to the said order dated 21st April, 2017, there is a moratorium granted and that moratorium of 180 days plus 90 days would have expired only some time in January, 2018. Mr. Thakkar states that therefore, the Court could not have proceeded to pass the order dated 30th October, 2017 read with order dated 29th November, 2017. Mr. Thakkar states that the Resolution Professional has filed an affidavit explaining the reason why he was not represented on 30th October, 2017 and 29th November, 2017. According to the IRP, the heads of departments of the company did not inform him about the pendency of the present petition and therefore, he could not instruct advocates to represent him before this Court. Mr. Thakkar states that even if for a moment the Court does not accept this explanation, still in view of the order dated 21st April, 2017 granting moratorium, this Court could not have passed the order dated 30th October, 2017 read with order dated 29th November, 2017.

4 Mr. Sarda, counsel appearing for original petitioner states that NCLT could not have passed the order dated 21st April, 2017 because Provisional Liquidator had already been appointed by this Court and therefore, the question of any moratorium being granted to the company also does not arise.

5 In my view, this is an issue which requires consideration. At the same time, in view of the explanation given by the IRP and also the fact that there is an order dated 21st April, 2017 and without going into the issue as to whether such order of 21st April, 2017 could have been passed by NCLT or not, I am still inclined to recall the order of winding up passed on 30th October, 2017 read with order dated 29th November, 2017. It should be noted that on 10th July, 2017 about 26 petitions were adjourned sine die in view of the order dated 21st April, 2017 passed by NCLT. Another petition was adjourned sine die on 5th October, 2017.

6 Therefore, the orders dated 30th October, 2017 read with order dated 29th November 2017 are hereby recalled. Petition restored to file for hearing.

7 Should petitioner in this case wish to lodge its claim before the IRP, the IRP shall consider the claim of petitioner and will not raise objection because petitioner had not lodged his claim before the IRP in view of the

order passed by this Court winding up the company. If the time to lodge the claim has expired, the IRP and Committee of Creditors shall extend the time granted to petitioner provided the application is filed within two weeks from today. This applies to other petitioners whose petitions are pending here.

8 In the circumstances, petition is adjourned sine die.

9 Application accordingly stands disposed. Notwithstanding disposal of the application, applicant to remove all office objections and get the application numbered within two weeks from today.

(K.R. SHRIRAM, J.)