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

OFFICIAL LIQUIDATOR'S REPORT NO.110 OF 2018
IN
COMPANY PETITION NO.311 OF 2014

In the matter of Companies Act, I of 1956
And
In the matter of M/s.Global SMS Networks Pvt. Ltd. (In Liqn.)

M/s.Liedia Networks Services Telematics S.A.)....Petitioner

Mr.P.Atchuta Ramaiah Official Liquidator along with Mr.Mahendhar Aithe-Company Prosecutor present.

CORAM : K.R.SHRIRAM,J
DATE : 18.7.2018

P.C.:-

1. This report is for sale of the movables of the company in liquidation lying at Cluster-C, Wing 3/LG-2, Level, Eon Sez, Kharadi, Pune-411 014.

2 As noted in the order dated 27.6.2018, 21 offers were received by the Official Liquidator. The valuation report given by V.S.Jadon & Co., Valuers LLP dated 10.11.2016 was opened by the court and considered. There were two items viz. X(i)(v) Storage System, Make IBM type no.2812-814 and IBM system Z-10 for which the court wanted clarification from the valuer. This is because the

valuation report indicated value of Rs.55,28,250/- of which these 2 equipments were shown to be having a value of Rs.50,00,000/-. As no explanation was given as to how this figure had been arrived at, by its order dated 27.6.2018 the court called upon the Valuer V.S.Jadon & Co. to give clarification. V.S.Jadon & Co. by a communication dated 5.7.2018 has explained how the values were arrived at, given a background of the 2 equipments and its application. They have also advised that there will be no valuation for the dismentled parts and though their assumption that the system can be used by someone else in IT company, the 2 equipments may not attract the buyers because last 2 years these machines have been stored in a basement godown without any care whereas these machines were expected to be stored in dust free A.C.premises. There is no maintenance or warranty since 21.9.2016 when it was last verified and hence realization of fair market value of these machines is not possible and machines may be sold for scrap value which will be negligible compared to fair valuation. Actually the valuers stated that they have arrived at the fair valuation earlier at the basis of the cost of the new similar system.

3 Out of the 21 bidders, the highest offer was from Bright Star Trading of Rs.3,60,000/-. Shehzada Enterprises offered Rs.3,90,000/- and F.D.Enterprises offered Rs.3,70,425/- and went

upto 4,21,000/-. Bright Star Trading offered Rs.5,00,000/- and nobody else was willing to offer a higher amount. This is the 4th attempt to sell. On the first two occasions no offers were received. Every time attempt to sell is made and advertisement is released, expenses are incurred. Moreover, if one considers the communication dated 5.7.2018 of the valuer and removes the two storage system/machines, the value indicated by V.S.Jadon & Co. for the remaining items as on 10.11.2016 is only Rs.5,28,250/-. In two years the value would have gone down further.

4 In the circumstances, as observed by the Apex Court in ***Kayjay Industries V/s.Asnew Drums***[1] if court sales are too frequently adjourned with a view to obtaining a higher price, it may prove a self defeating exercise. It will be useful to reproduce para-7 as under :-

> "Certain salient facts may be highlighted in this context. A court sale is a forced sale and, notwithstanding the competitive element of a public auction, the best price is not often forthcoming. The judge must make a certain margin for this factor. A valuer's report, good as a basis, is not as good as an actual offer and variations within limits between such an estimate, however careful, and real bids by seasoned businessmen before the auctioneer are quite on the cards. More so when the subject matter is a specialised industrial plant, which has been out of commission for a few years, as in this case, and buyers for cash are bound to be limited. The brooding fear of something out of the imported machinery going out of gear, the vague apprehensions of possible claims by the

1 (1974) 2 SCC 213

Dena Bank which had a huge claim and was not a party, and the litigious sequel at the judgment-debtor's instance, have `scare' value in inhibiting intending buyers from coming forward with the best offers. Businessmen make uncanny calculations before striking a bargain and that circumstance must enter the judicial verdict before deciding whether a better price could be had by a postponement of the sale. Indeed, in the present case, the executing Court had admittedly declined to affirm the highest bids made on May 16, 1969, June 5, 1969 and August 28, 1969, its anxiety to secure a better price being the main reason. If court sales are too frequently adjourned with a view to obtaining a still higher price it may prove a self-defeating exercise, for industrialists will lose faith in the actual sale taking place and may not care to travel up to the place of auction being uncertain that the sale would at all go through. The judgment-debtor's plea for postponement in the expectation of a higher price in the future may strain the credibility of the Court sale itself and may yield diminishing returns as was proved in this very case."

5 In the circumstances, in my view, amount of Rs.5,00,000/- offered by Bright Star Trading has to be accepted and is hereby accepted.

6 Official Liquidator to give possession of the movables subject to receiving full payment and fulfillment of other terms and conditions. Liquidator to return the EMD given by other bidders.

7 Official Liquidator's Report disposed.

(K.R.SHRIRAM,J)