

COMPANY PETITION NO.89 OF 2016

Vs.

WITH

COMPANY PETITION NO.90 OF 2016

 $V_S.$

Reflection Promotions Pvt. Ltd.Respondent

None for respondent.

CORAM : K.R.SHRIRAM, J.
DATE : 2nd AUGUST 2018

P.C.:

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2 Rest of the order remains unaltered. Original order to be corrected accordingly.

3 This petition is for winding up of respondent company - Reflection Promotions Pvt. Ltd. (the company) under the provisions of the Companies Act, 1956 on the ground that the company is unable to discharge its debts and is commercially insolvent.

4 On 12th February 2018 while admitting the petition, the Court
was pleased to pass the following order :

1. Mr.Arsiwala for petitioner, on instructions from Mr.Sunil Ikhe, Director of company who is present in Court, states that the financial situation of the company is so bad that the petition be admitted for winding up.

It should be noted that in this petition, amount claimed is only Rs.21,18,000/- from November 2013. Therefore, the following order :

(i) The company petition is admitted and is made returnable on 26th April 2018.

(ii) Petitioner is directed to advertise the petition in two local newspapers, viz., (i) Free Press Journal (in English); and (ii) Navshakti (in Marathi) as also in the Maharashtra Government Gazette. Any delay in publication of the advertisement in the Maharashtra Government Gazette, and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute noncompliance with this direction or with the Company (Court) Rules, 1959.

(iii) Petitioner shall deposit Rs.15,000/- toward publication charges with the Prothonotary and Senior Master, under intimation to the Company Registrar, within a period of two weeks, failing which petition shall stand dismissed for non-prosecution without further reference to the Court. After the advertisements are issued, the balance, if any, shall be refunded to petitioner.

(iv) Notice under Rule 28 of the Companies (Court) Rules, 1959 waived.

2. Mr. Arsiwala states that even though there is no separate application filed by petitioner, prayer clauses (d) and (e) in the petition be also granted. Hence, prayer clauses (d) and (e) granted and the same read as under :

(d) The pending the hearing and final disposal of the petition, the Official Liquidator, High Court Bombay be appointed as the Provisional Liquidator of Reflection Promotions Private limited to take charge of the business affairs of the company and all its assets with all powers under the Companies Act, 1956.

(e) For an interim injunction that the company by itself, servants, agents or otherwise however restrained from in any manner disposing of or alienating or parting with possession of or encumbering or transferring any of its assets and properties.

3. In these circumstances, official liquidator of this Court is appointed as Provisional Liquidator of the company Reflection Promotion Private Limited.

4. The advocate for petitioner to forward a copy of this order authenticated by the Associate of this Court to the official liquidator within one week of the order being uploaded.

5 On record is an affidavit of one Ankush Ramchandra Pandit affirmed on 16th April 2018 confirming advertising the petition in Free Press Journal and Navshakti on 7th March 2018 and in the Maharashtra Government Gazette for the period 8th – 14th March 2018 at serial no.M-17359. Notice under Rule 28 of the Companies (Court) Rules, 1959 was waived at the time of admission of the petition.

6 There is no affidavit in reply filed by the company opposing the petition and therefore, none of the averments in the petition are controverted. Having perused the petition, the documents annexed thereto and in view of what is recorded in the admission order dated 12th February 2018, I am satisfied that the company is unable to repay its debts, is commercially insolvent and requires to be wound up.

7 In the circumstances, company petition is allowed in terms of prayer clauses – (a) and (b) which read as under :

(a) That the respondent company namely Reflection Promotions Private Limited be wound up by and under the order and direction of this Hon'ble Court under the provision of the Companies Act, 1956;

(b) That the Official Liquidator, High Court Bombay be appointed as the Liquidator of Reflection Promotions Private Limited, with all powers under the Companies Act 1956, to take charge of the assets of the company and conduct its affairs in the course of winding up.

8 Official Liquidator, within two weeks, to take steps upon receiving an authenticated copy of this order from the advocate for petitioner without waiting for any notification. The counsel for petitioner is also directed to forward a copy of this order to National Company Law Tribunal for information.

9 Upon receipt of the authenticated copy from petitioner's advocate, Official Liquidator shall forthwith cause notice to all concerned Directors calling upon them to file their respective statement of affairs strictly in consonance with the provision of law. All Directors of respondent company, now in liquidation, are hereby directed to file their respective statement of affairs as required under Section 454 of the Companies Act 1956, failing which Official Liquidator shall proceed further and lodge criminal complaint against the erring Directors, without seeking prior sanction of this Court for initiation of criminal prosecution.

10 Company petition accordingly stands disposed.

11 Prothonotary and Senior Master, High Court, Bombay to refund the amount of Rs.15,000/- deposited by petitioner towards advertisement, subject to deductions, if any.

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1 In view of the above order passed in company petition no.89 of

2016, this petition also stands disposed with liberty to petitioner to lodge its proof of debt with Official Liquidator, who shall consider the same in accordance with law.

2 If the order dated 2nd August 2018 in company petition no.89 of 2016 winding up respondent company – Reflection Promotions Pvt. Ltd. is recalled or set aside in appeal, liberty is given to petitioner to revive this petition and move once again for necessary orders including winding up of respondent company.

Gauri
Amit
Gaekwad

Digitally
signed by
Gauri Amit
Gaekwad
Date:
2018.08.03
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+0530

(K.R.SHRIRAM, J.)