

IN THE HIGH COURT OF JUDICATURE AT MADRASDATED : **14.12.2015**

CORAM:

THE HONOURABLE MR. JUSTICE S.MANIKUMAR**Company Petition No. 299 of 2009****and****Comp. Application No.810 of 2014****and****1930 and 1931 of 2009**

ICICI Bank Ltd.,
 having its Registered Office at
 Landmark Race Course Circle
 Vadodara – 390 007 and
 its Regional Office at
 ICICI Bank Towers,
 Plot No.24, South Phase,
 Ambattur Industrial Estate
 Chennai – 600 058
 Rep. by Neeli Leelananda

... Petitioner

Vs.

Mascon Global Limited
 having its registered office at
 "Sri Rama Building" 1st Floor
 No.38, (Old No.159) Greams Road
 Chennai – 600 006.
 rep. by its Chairman
 and CEO Mr. K. Chandra

... Respondent

Petition filed under Sections 433 (e) and (f) read with Sections 439(1)(b) and Section 237 (1)(b) of the Companies Act, 1956, seeking to direct the respondent company Mascon Global Limited to be wound up under the provisions of the Companies Act,

1956 and consequently appoint the Official Liquidator, Madras High Court to take charge of the affairs of the said Company Mascon Global Limited and to pass further orders.

For Petitioner : M/s. Iyer and Thomas

For Respondent : Mr. K. Chandra (Chairman & CEO)

ORDER

This Company Petition No.299 of 2009 has been filed Petition filed under Sections 433 (e) and (f) read with Sections 439(1)(b) and Section 237 (1)(b) of the Companies Act, 1956, to wind up the respondent company, Mascon Global Limited, under the provisions of the Companies Act, 1956 and consequently, to appoint the Official Liquidator, High Court, Madras to take charge of the affairs of the said Company.

2. On 30.10.2014, after considering the material on record and the submissions of the learned counsel for the applicant M/s. ICICI Bank Ltd., and the learned counsel for the respondent company M/s. Mascon Global Limited, Chennai, this Court in Company Applications No.810 of 2014 and 1930 & 1931 of 2009 in C.P. No. 299 of 2009, at paragraphs 9 and 10, has ordered as follows :-

" 9. *Perusal of the material on record and from*

the submissions advanced, it could be deduced that in C.P. No. 82 of 2011, the Official Liquidator, High Court, Madras has sought to be appointed as a Provisional Liquidator. There is also an order of interim injunction in the Comp. A. No. 1931 of 2009 dated 23.12.2009, as stated supra.

10. Though Mr.T.K. Bhaskar, learned counsel for M/s. Mascon Global Limited, Chennai, submitted that the order made in C.P. No.82 of 2011 has been challenged before the Hon'ble Division Bench of this Court, there is no stay of the order. Official Liquidator, High Court, Madras, has been appointed as Provisional Liquidator to take charge of the assets. "

Registry has been directed to post the matter on 26.12.2014.

3. Record of proceeding further shows that the order directing the Company M/s. Mascon Global Limited, Chennai to pay a sum of Rs.10 crores within a period of eight weeks from the date of receipt of a copy of the said order, has not been complied with and therefore, on 30.03.2015, learned Official Liquidator, High Court, Madras has been appointed as the Provisional Liquidator to take charge of the assets of the respondent company, and to proceed with, in accordance with the provisions of the Companies Act and thus, the Company Petition has been admitted.

4. Record of proceeding shows that subsequently, on completion of service and on the orders of the learned Master on 18.09.2015, the matter has been posted before this Court. The matter has been posted for hearing before my Predecessor on 01.10.2015 and 29.10.2015 respectively. Record of proceeding further shows that despite the time granted for settlement, payment has not been made. On 05.11.2015, this Court as recorded as follows :-

" Mr.T.K. Bhaskar, learned counsel for the respondent submitted that despite e-mail sent to the Managing Director of the Company, there is no response.

However, perusal of the order made in OSA Nos.255 & 256 of 2014 dated 27.11.2015, it could be deduced that the respondent has changed his registered office to Chandra Apartments, No.25-A Hospital Road, Saidapet, Chennai-15.

Learned counsel for the respondent seeks time to ascertain as to whether there is any response from this office to C.P. No.299 of 2009. Post on 18.11.2015. "

Thereafter, on 18.11.2015, this Court has recorded as follows :-

" Mr. T.K. Bhaskar, the learned counsel appearing for the respondent submitted that the registered letter sent to the new address has also returned unserved, with an

endorsement "Left". With regard to the affidavit and the statement of the learned counsel Mr.T.K.Bhaskar, Registry is directed to delete the name of the said counsel and print the name of the respondent M/s. Mascon Global Limited, Chennai having its office at "Sri Rama Building", I Floor, No.38 (Old No.159) Greams Road, Chennai - 600 006. Post on 26.11.2015."

Due to rains, the matter could not be listed on 26.11.2015. Though the name of the respondent company sought to be wound up, is shown in today's cause list, there is no appearance either in person or through Pleader.

5. Considering the case of the petitioner, with reference to the averments and the documents, filed in support of the prayer sought for, the conduct of the respondent, and having satisfied that the petitioner has made out a *prima facie* case, in exercise of the powers conferred under Sections 433 (e) and (f) read with Sections 439(1)(b), this court is inclined to grant the relief of winding up of the Company M/s. Mascon Global Limited, Chennai. Learned Official Liquidator, High Court, Madras, is appointed as the Liquidator of the respondent company and is hereby directed to take charge of the assets of the respondent company. The Ex-Directors of the

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avr

respondent company are directed to file their statement of affairs before the Official Liquidator within a period of 21 days. The petitioner shall deposit a sum of Rs.10,000/- towards the initial expenses to the Official Liquidator in this matter. Consequently, the Company Application Nos.810 of 2014 and 1930 & 1931 of 2009 are ordered, as stated supra.

14.12.2015

Note to Office :

Issue order copy on 18.12.2015

Index : Yes/No
Internet : Yes/No

avr/skm

C.P.No. 299 of 2009
and
Comp. A. No.810 of 2014
and
1930 and 1931 of 2009

