$~CP-11

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

\+ CO.PET. 418/1998

IN THE MATTER OF M/S VINKAS GENERAL CARBON LTD.

..... Petitioner

Through

versus

.... Respondent

Through Mr.Shubhendu Bhattacharya, Adv. for Mr.Kunal Sharma, Adv. for OL with Mr.D.K.Singh, OL

Mr.Sangram Patnaik, Mr.Naresh Kumar Sharma, Mr.Swayam Sidh Patnaik and Ms.Anvesh Dwivedi, Advs. for IDBI

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

% **03.05.2018**

CA 1858/2014

1. This application is filed under section 481 of the Companies Act, 1956 for winding up of the company. It has been stated in the present application that claims were invited on 28.12.2004, 17.3.2005 and 1.1.2006. The three claims were received from, namely, ICICI Bank Ltd., IDBI Bank being secured creditor and Central Excise being preferential creditor. The assets of the company have been sold. Out of Rs.1,50,00,000/- by order of this court dated 28.3.2008 the OL has disbursed Rs.50 lacs to ICICI Bank and IDBI Bank on pro rata basis. Presently the fund position of the company is only Rs.83,764/-. It is prayed that the OL may be permitted to adjust the said amount towards audit fee and government fee.

2. It also appears that in terms of order of this court dated 5.5.2009 and report No.71/2009 an FIR No.162/2009 was registered against the Valuer

M/s.A.Khanna and Associates, auction purchaser M/s.S.R.Industries and an official of the OL, namely, Harish Chander Joshi. Chargesheet was also filed which is pending before Patiala House Courts. It is contended that chargesheet reveals that no evidence was found against the official of the OL Shri Harish Chander Joshi. It is also pleaded that there was no error on the part of the OL and the whole proceedings were caused due to typographical error in the land and area. It is also stated that no loss was caused while conducting sale of the property as the sale has been done after correction of the dimensions. Further, one of the accused Shri Sushil Singla and Others had filed a petition under section 482 Cr.PC for quashing of the said FIR 162/2009. This court has on 4.2.2013 passed orders quashing the said proceedings. It is prayed that steps be taken for quashing the FIR No.162/2009.

3. As far as quashing of the FIR is concerned it would be for the accused to approach the appropriate court. In case the accused were to move an appropriate petition under section 482 of Cr.PC before this court the OL will be free to support such a plea before the concerned court.

4. Keeping in view the above, the present application is allowed. The company is directed to be dissolved under section 481 of the Companies Act. The amount of Rs.83,764/- will be adjusted by the OL towards government fund, audit fee, liquidation expenses etc.

5. Petition stands disposed of.

JAYANT NATH, J

MAY 03, 2018/n