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

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Date of Decision: 04.04.2018

+ CO.PET.76/2008 & C.A 595/2017

IN THE MATTER OF SIMCO SCIENTIFIC
INSTRUMENTS MARKETING CO. LTD. Petitioner

Through Ms. Ruchi Sindhwani, Sr. Standing
Counsel with Ms. Megha Bharara,
Adv. for Official Liquidator.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. The petition is filed under section 433(e), 434 and 439 of the Companies Act, 1956 (*herein referred to as "the Act"*), for winding up of Simco Scientific Instruments Marketing Co. Ltd. (in liquidation) (*herein referred to as the "said company"*).

2. It is stated that the OL was appointed as the Provisional Liquidator by the order of this court dated 13.05.2010 in the said company and the same was ordered to be wound up by order dated 14.10.2014. Citations were published in the leading newspapers and in the Delhi Gazette.

3. It is further stated that in compliance of the order dated 09.02.2016 passed by this court an application being C.A. 595/2017 has been filed by the Official Liquidator (OL) under Section 481 of the Act wherein it is prayed that the said company be dissolved and the OL be discharged as its Liquidator.

4. The Registered Office of the said company was situated at D-7/7163, Vasant Kunj, New Delhi. The possession of the same was not taken over as

one Mr. Rajesh Kumar stated that he had purchased the said flat/premises from Sh. Praveen Chaudhary and produced a copy of relevant sale deed/title deed dated 21.04.2005 along with the copy of previous chain of documents with regard to the complete transaction of sale/purchase of the aforesaid premises/flat. Another office, noted to be the previous Registered Office of the said Company at property No 248, bearing Khasra No. 210, measuring 1700 Sq. Feet in the Lal Dora of village, Hauz Rani, New Delhi was also visited by the team of the OL. The possession of the same could not be taken over as the said company had sold the 1st Floor measuring 1700 Sq. Feet (Approx) on 29.03.2000.

5. A perusal of the petition shows that the records of the said Company as maintained at the office of the Registrar of Companies (ROC), Delhi, specifically the Annual Return filed on 29.09.2007, showed that the following persons have been directors of the said Company, namely, Mr. Rajbir Singh Daryan, Mrs. Suresh Daryan, Mrs. Suresh Daryan, Mrs. Pooja Daryan, Mr. Udit Daryan, R/O C-2617, Sushant Lok-I, Gurgaon, Haryana.

6. The notices under Section 454, 456 of the Act and under Rule 130 of the Companies (Court) Rules, 1959 were sent to the aforementioned Ex-Directors. Sh. Udit Daryan thereafter provided proof of resignation as a Director w.e.f. 12.10.2006. Sh. R.S. Daryan filed a Statement of Affairs and the other Ex-Directors filed similar Statement of Affairs, all of which were found defective. The Directors expressed their inability to remove the defects as they had failed to maintain records of the said Company in the required form & manner.

7. Thereafter, the OL filed a Crl. (O) No. 1/12 against Shri Rajbir Singh Daryan, Mrs. Suresh Daryan & Mrs. Pooja Daryan. The same was disposed

off vide order dated 22.11.2017 holding the respondents guilty of non-compliance of the provisions of Section 454(1) of the Act and imposing a cost of Rs.25,000/- on each of the directors.

8. That the only assets of the said Company which came to the knowledge of the OL (derived from letter dated 29.11.2012 by Mr. R.S. Daryan, Ex-Director) was an investment made by the said company in the shares of Innovative Pultrusion Technology (P) Ltd. (IPTL) worth Rs.30,70,000/-. In addition there was a sum of Rs.15,36,092/- invested in IPTL which could not result in issuance of share certificate as Madhya Pradesh Audhyogic Vikas Nigam (MPAVN) (one of the lenders to IPTL) had locked the premises of IPTL under Section 29 of State Financial Corporation Act, 1998. Mr. R.S. Daryan also informed that the said company had pledged shares worth Rs.17,23,470/- of IPTL to MPAVN in 1993 before disbursement of loan to IPTL. It was informed by Madhya Pradesh State Industrial Development Corporation (MPSIDC), formerly known as (MPAVN), that in exercise of power conferred under Section 29 of the State Financial Corporation Act, the mortgaged and hypothecated assets of IPTL had been sold for Rs. 31 Lacs to Steelite Engineering Ltd. Mumbai and MPSIDC had adjusted Rs.11,41,474/- towards the security charges and the balance of Rs.19,58,526/- is pending for distribution amongst MPSIDC, MPFC & SBI (All Secured Creditors). Since there was no probability for realization towards the shares of the said company, as the claims of the secured creditors of IPTL had not been satisfied, the OL filed C.A. No.2068/2015 under Section 535 of the Act read with Rule 9 of Companies (Court) Rules, 1959, for leave to disclaim paid-up shares and

advances towards shares of the said Company in IPTL. The said application was allowed by order of this court dated 09.02.2016.

9. It is further submitted that no useful purpose will be served by inviting claims from the creditors as there are no funds available and there are no recoverable assets or dues of the said Company to the knowledge of the OL.

10. That the fund position of the said Company is Rs. (-) 2529/- as on 17.02.2017.

11. In the case of *Meghal Homes (P) Ltd Vs Shree Niwas Girni K.K. Samiti and Ors.*, (2007) 7 SCC 753, the Supreme Court, inter alia in Paragraph 31 thereof, has held as under :-

“When the affairs of the Company had been completely wound up or the court finds that the Official Liquidator cannot proceed with the winding up of the Company for want of funds or for any other reason, the court can make an order dissolving the Company from the date of that order. This puts an end to the winding up process”.

12. In view of the above decision of the Supreme Court and the facts and circumstances of this case, the liquidation proceedings deserve to be brought to an end. Consequently, the said company is dissolved.

13. A copy of this order be communicated to the ROC within thirty days by the OL.

14. The petition is accordingly disposed of and the OL is discharged.

JAYANT NATH, J.

APRIL 4, 2018/ss