

\$~24

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS (OS) 1735/2014

SHIVALIK BIMETALS CONTROLS LTD.

..... Plaintiff

Through: Ms. Manpreet Kaur, Advocate.
(M:9873288908)

versus

SAMTEL COLOR LTD.

..... Defendant

Through: Ms. Vijay Laxmi Mewara, Advocate.
(M:9717172611)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

05.10.2018

Ms. Vijay Laxmi, counsel appearing for Mr. Sanjay Chhabra, Counsel for Defendant, has placed on record a copy of the order dated 4th July, 2018 by which the National Company Law Tribunal ('NCLT') has directed appointment of a Liquidator in respect of the Defendant company. All the assets of the Company are to be liquidated in terms of section 55 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter*, 'the Code'). The operative portion of the said order of the NCLT reads as under:

“Accordingly, we allow the application namely C.A. No.474(PB)/2018 and declare that the Corporate Debtor be liquidated in the manner as laid down in Chapter-III. A public notice stating that the Corporate Debtor is in liquidation shall be issued by the Liquidator. A copy of this order be sent to the authorities with which the Corporate Debtor is registered. Subject to the provisions of Section 52 of the Code no suit or other legal proceedings ought to be instituted by or against the Corporate Debtor. However, leave is granted to the Liquidator to institute any proceeding on behalf of the Corporate Debtor with the prior approval of the Adjudicating Authority – NCLT. It is also clarified that the aforesaid condition is not to apply to legal

proceedings in relation to such transaction as may be notified by the Central Government in consultation with the Financial Sector Regulator. It is further clarified that the order of liquidation being passed today shall be deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor. Accordingly, we direct the RP, Mr. Sanjay Gupta to act as a Liquidator. As a Liquidator he is to first pay the dues of insolvency resolution process costs if any paid by the IRP or RP as per the provisions of Regulation 53 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The Liquidator so appointed shall perform all his duties as given in details in Section 55 of the Code and submit his reports from time to time as per the requirement of the provisions of the Code, Regulations and the Rules.”

Present matter was mentioned in the morning by learned counsel for the Plaintiff, who has submitted to the Court that the Plaintiff has already filed the claims before the NCLT. The order of the NCLT is clear in its terms that no suit or legal proceedings would be maintainable against the Company, which is the Corporate Debtor. In view of the provisions of Section 52 & 53 of the Code and the fact that the Plaintiff has already made its claims before the NCLT/Liquidator, the present suit is no longer maintainable. The Plaintiff is, however, also at liberty to pursue its claim in the appropriate forum. Any original documents that may have been filed may be returned to the counsel for the Plaintiff. The Plaintiff is permitted to recover the Court fee deposited in this suit, as part of its claims.

The suit is dismissed in the above terms.

PRATHIBA M. SINGH, J.

OCTOBER 05, 2018/dk