$~CP-17

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

% ***Date of decision:*** 20.11.2018

\+ CO.PET. 47/2017

IN THE MATTER OF UNOCAL BHARAT SERVICE PRIVATE LTD. (IN VOL.LIQN.) ..... Petitioner

Through Mr.Kunal Sharma, Adv. for OL and Mr.Rajiv K. Nanda, Vol.Liquidator.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

<u>JAYANT NATH, J. (ORAL)</u>

1. This is a company petition, preferred under Section 497 (6) of the Companies Act, 1956(*herein referred to as "the Act"),* by the Official Liquidator (OL). The prayer made in the petition is that the subject company i.e., UNOCAL BHARAT SERVICES PRIVATE LIMITED *(herein referred to as the "said company")*, may be wound up and finally dissolved from the date of the filing of the instant petition.

2. The record shows that the said Company in issue was incorporated on 02.07.1998, vide registration no. 094788, with the Registrar of Companies (ROC), NCT of Delhi and Haryana. The Corporate Identity Number of the said company is U65999DL1998PTC094788.

3. The registered office of the said Company in issue is stated to be situated at 405, Paharpur Business Centre, Nehru Place, New Delhi – 110019, and thus within the territory of the NCT of Delhi.

4. The authorised share capital of the company is Rs. 30,00,00,000/- (Rupees Thirty Crores Only), divided into 3,00,00,000 (Three Crore only) equity shares of Rs. 10/- (Rupees Ten) each. The record shows that the paid-up capital of the Company is Rs.27,65,51,070/- (Rupees Twenty-Seven Crores, Sixty-Five Lakhs, Fifty-One Thousand and Seventy only), divided into 2,76,55,107 (Two Crores, Seventy-Six Lakhs, Fifty-Five Thousand, One Hundred and Seven only) equity shares of Rs. 10/-, each fully paid up. As per the records, Unocal Global Ventures Limited holds 2,74,88,960 shares and Unocal Asia Pacific Private Limited holds 1,66,147 shares.

5. The directors of the said company in issue, as on the date of passing the resolution of voluntary winding up, were Mr. David B. Smith and Mr. Hemant Nanda.

6. The said Company has filed its audited Balance sheet, along with profit and loss account, auditor's report and director's report for the financial years ending on 31.03.2004 and 31.03.2005.

7. The Board of Directors of the said company in their meeting held on 24.06.2005, executed and approved a declaration of solvency, which was filed with the ROC, in Form 149, as prescribed under Rule 313 of the Companies (Court) Rules, 1959 and Section 488 of the Act. The said declaration is indicative of the fact that upon an enquiry being made from the said company, an opinion had been formed that the said company would be able to pay its debts, if any, in full within a period of three years from the commencement of the winding up. A statement of the said company's assets and liabilities, as on 24.06.2005, being the latest practicable date before the making of the declaration, has also been filed.

8. An extra-ordinary general meeting of the members of the said company was held on 11.07.2005, at the registered office of the said company, where a special resolution for the voluntary liquidation of the company was passed and one Mr. Gaurav Dhingra was appointed as the Voluntary Liquidator of the said company.

9. The Voluntary Liquidator published the notification of his appointment, as required under Section 516 of the Act read with Rule 315 of the Companies (Court) Rules, 1959 in Form No. 151, in the Official Gazette on 06.08.2005. Mr. Gaurav Dhingra is stated to have resigned as the voluntary liquidator, and one Mr. Rajiv Nanda was appointed as the Voluntary Liquidator, in the extra-ordinary general meeting, held on 10.07.2006. Mr. Rajiv Nanda, the Voluntary Liquidator published the notification of his appointment, in Form No. 151, in the Official Gazette on 26.08.2006 and filed notice of his appointment, in Form 152, with the ROC.

10. The Voluntary Liquidator has published the resolution passed by the members of the said company to wind up voluntarily, in the extra-ordinary general meeting held on 11.07.2005, in the newspaper, 'Veer Arjun', Hindi edition, on 22.07.2005 and 14.03.2016 respectively, and in the Official Gazette on 06.08.2005.

11. The Voluntary Liquidator, as required under Section 497(1) of the Act read with Rule 329, published the notification, in Form No. 156, regarding the holding of the final general meeting, to be held on 30.09.2016, in the newspaper, 'Business Standard'(English and Hindi), on 05.08.2016, and in the Official Gazette on 27.08.2016.

12. The final extraordinary general meeting of the said company was held on 27.08.2016. The Voluntary Liquidator filed accounts of the said company in Form No. 156 and 157, as prescribed under Rule 329 and 331 of the Companies (Court) Rules, 1959, for the period from 11.07.2005 to 30.09.2016, before the ROC and the OL.

13. The OL, in the present petition, had raised an objection that as per the statement of accounts, a sum of Rs. 1,11,49,184.23/- is shown to be available in the bank account of the said company. Learned Counsel for the OL has submitted that subsequently, a clarification has been received from the voluntary liquidator, Mr. Rajiv Nanda, stating that the bank account of the said company, maintained with Standard Chartered Bank, has been frozen by the bank, due to non-operation, and that upon dissolution of the said company, the bank shall re-activate the account, and remit the amount to the Voluntary Liquidator and that the Voluntary Liquidator will apply that amount to pay off winding up costs and remit the remaining amount to the shareholders of the said company. It is further submitted that an affidavit to that extent has also been filed by the Voluntary Liquidator.

14. In the present petition, the OL had raised another objection that Form Nos. 153 and 154 have not been filed by the said Company with the ROC. Learned Counsel for the OL submits that in view of the no-objection certificate, dated 06.01.2016, issued by the ROC, the objection raised does not survive. Hence, learned counsel for the OL submits that the Voluntary Liquidator has answered all the queries.

15. The Voluntary Liquidator has furnished an indemnity bond, dated 12.04.2016, stating that any loss caused to the Government of India, by reason of any claim/demand being found outstanding and not paid as on the

date of the signing of the indemnity bond, the Voluntary Liquidator shall indemnify the Government to the extent of such loss caused.

16. The Income Tax Department has provided a certificate of no dues, with respect to the subject Company, dated 05.08.2013, stating therein that as on date, there were no outstanding demands against the Company.

17. The OL has further submitted that the affairs of the said company have been conducted in a manner, not prejudicial to the interest of the members, and is thus of the opinion that the Company may be dissolved with effect from the date of the filing of the petition.

18. Thus, having regard to the aforesaid facts and circumstances and the record of the case, the prayer made in the petition is allowed and the Company is wound up and shall be deemed to be dissolved with effect from the date of the filing of the present petition, i.e. 10.08.2017.

19. A Copy of the order be filed by the OL with the ROC within the statutory period as per the Act.

20. The petition is disposed of in the aforesaid terms.

JAYANT NATH, J

NOVEMBER 20, 2018/ss

Corrected and released on: 20.12.2018