$~CP-37

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

% ***Date of decision**:* 18.12.2018

\+ CO.PET. 25/2018

OM MARUBENI LOGISTICS PRIVATE LIMITED
(IN VOL.LIQN.) .... Petitioner

Through Mr. Kunal Sharma, Adv., on behalf of OL

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., OM MARUBENI LOGISTICS 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 04.01.2008, with the Registrar of Companies (ROC), NCT of Delhi and Haryana. The Corporate Identity Number of the said Company is U63090DL2008PTC172298.

3. The registered office of the said Company in issue is stated to be situated within the territory of the NCT of Delhi, at 130, Transport Center, Ring Road, Punjabi Bagh, New Delhi - 110035.

4. The authorised share capital of the said company is Rs. 1,50,00,000/- (Rupees One Crore, Fifty Lakhs Only), divided into 15,00,000 (Fifteen Lakh only) equity shares of Rs. 10/- (Rupees Ten) each. The record shows that the paid-up capital of the said company is Rs. 1,37,00,000/- (Rupees One Crore, Thirty-Seven Lakhs only), divided into 13,70,000 equity shares of Rs. 10/-, each fully paid up. As per the records, Marubeni Corporation holds 7,53,500 shares, Minda Investments Ltd. holds 1,80,000 shares, Om Logistics Ltd. holds 4,36,498 shares and Mr. Naoki Tsuda and Mr. Nirmal Kumar Minda hold 1 share each.

5. The directors of the said company in issue, as on the date of passing the resolution of voluntary winding up, were Mr. Nirmal Kumar Minda, Mr. Ajay Singhal and Mr. Hitoshi Okamura.

6. The majority of the Board of Directors of the said company in their meeting held on 17.12.2012 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 has no debts. A statement of the said company's assets and liabilities, as on 31.03.2012, being the latest practicable date before the making of the declaration, has also been filed.

7. An extra-ordinary general meeting of the members of the said company was held on 16.01.2013, at the registered office of the said company, where a special resolution for the voluntary liquidation of the said company was passed and Mr. Prakash Ramniklal Mehta, Chartered

Accountant was appointed as the Voluntary Liquidator of the said Company at a total remuneration of Rs. 30,000/-.

8. 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 24.01.2013. Further, the Voluntary Liquidator had filed notice of his appointment, in Form 152, with the ROC, on 29.01.2013.

9. The Voluntary Liquidator, as required under Section 497(1) of the Act read with Rule 329, published the notification, in Form No. 155, regarding the holding of the final general meeting, to be held on 18.04.2016, in the newspaper, 'Business Standard' (English and Hindi editions), on 11.02.2016, and in the Official Gazette on 05.03.2016.

10. The final extraordinary general meeting of the said company was held on 18.04.2016. 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 16.01.2013 to 18.04.2016, before the ROC and the OL. As per the statement of accounts, a sum of Rs. 22,18,655/- was recovered during the winding up process, out of which Rs. 30,000/- was expended towards the liquidator's remuneration, Rs. 2,25,840/- was paid to unsecured creditors and a sum of Rs. 19,62,815/- is stated to have been returned to the contributories.

11. The Income Tax Department has provided a certificate of no dues, dated 18.03.2015, with respect to the said company, stating therein that as on date, there were no outstanding demands against the said company.

12. The ROC has stated that the subject company has filed the requisite forms, except for Forms 153 & 154 and Forms 156 and 157. The OL states

that a clarification has been received from the voluntary liquidator regarding the filing of the said forms, where the Voluntary Liquidator has submitted that Forms Nos. 156 and 157 have been filed with the Registrar of Companies and that no requirement of filing Form Nos. 153 and 154 separately has been given in the Act and that the said forms have been filed in one e-form. The OL further submits that in view of the same, the said company may be dissolved.

13. 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 said company may be dissolved with effect from the date of the filing of the petition.

14. 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 said 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. 13.12.2018.

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

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

JAYANT NATH, J.

DECEMBER 18, 2018/ss
Corrected and released on:10.01.2019