

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.04.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.P.No.414 of 2013

M/s.Flyjac Logistics Pvt. Ltd.,
Rep. By its Company Secretary
No.25-32, Readymade Garment Complex
SIDCO Industrial Estate, Guindy
Chennai - 600 032

... Petitioner

Vs.

M/s.Moka Technology Services Limited
Plot No.63, Indira Gandhi Nagar
Kayarambedu, Guduvanchery
Chennai - 603 202
(Formerly TVS Net Technologies Limited
No.7B, West Veli Street
Madurai- 625 001

... Respondent

Company Petition filed under Section 433 (e) and (f), 434 (1)(A) and 439 (1)(B) of the Companies Act, 1956 to wound up the respondent having its registered office at Plot No.63, Indira Gandhi Nagar, Kayarambedu, Guduvanchery, Chennai - 603 202 be wound up under the provisions of the Companies Act, 1956 and the properties of the company be directed to vest with the official liquidator and for costs to the petitioner.

For Petitioner :Mr.T.V.Badrinarayanan

For Official Liquidator : Mr.Bavishetty Sridhar

Deputy Official Liquidator

ORDER

'Moka Technology Services Limited' ('Moka' for brevity) is the

<http://www.judis.nic.in> company which is sought to be wound up at the instance of a creditor in the

instant CP. The creditor is a private limited company, which goes by the name 'Flayjac Logistics Pvt. Ltd.,' ('Flyjac' for brevity).

2.This company petition, for all practical purposes is vintage as it has been pending for more than half a decade in this Court. At this juncture, the 'Official Liquidator attached to this Court'('OL' for brevity) represented by learned Deputy Official Liquidator Mr.Bavishetty Sridhar brings to the notice of this Court an order dated 21.07.2017 made by 'National Company Law Tribunal' ('NCLT' for brevity) in proceedings in TCP/81/(IB)/CB/2017 initiated by another creditor qua Moka being 'Web Solutions India Ltd.,'.

3. A perusal of the order dated 21.07.2017 reveals that the proceedings are under 'The Insolvency and Bankruptcy Code, 2016 (31 of 2016)' ('IB Code' for brevity) and that the NCLT vide aforesaid order dated 21.07.2017 has declared a moratorium. Moratorium declared by NCLT for MOKA vide aforesaid order is captured in Paragraph 5 and the same reads as follows:

'5.We declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process, for the purposes referred to in Section 14 of the I & B Code 2016. We order to prohibit all of the following, namely:

(a) The institution of suits or continuation of pending

suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) Transferring, encumbering, alienating or disposing of any the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) Any action to foreclose, recover or enforce any security interest executed by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

3. In the light of the aforesaid obtaining position, it is open to the petitioning creditor herein, namely Flyjac to work out its remedies, if any, before the NCLT. To be noted, 'before NCLT' would necessarily mean in the resolution proceedings, if the same is alive. It is open to the petitioning creditor to pursue this option without this order coming in the way or impeding such a process, if pursued.

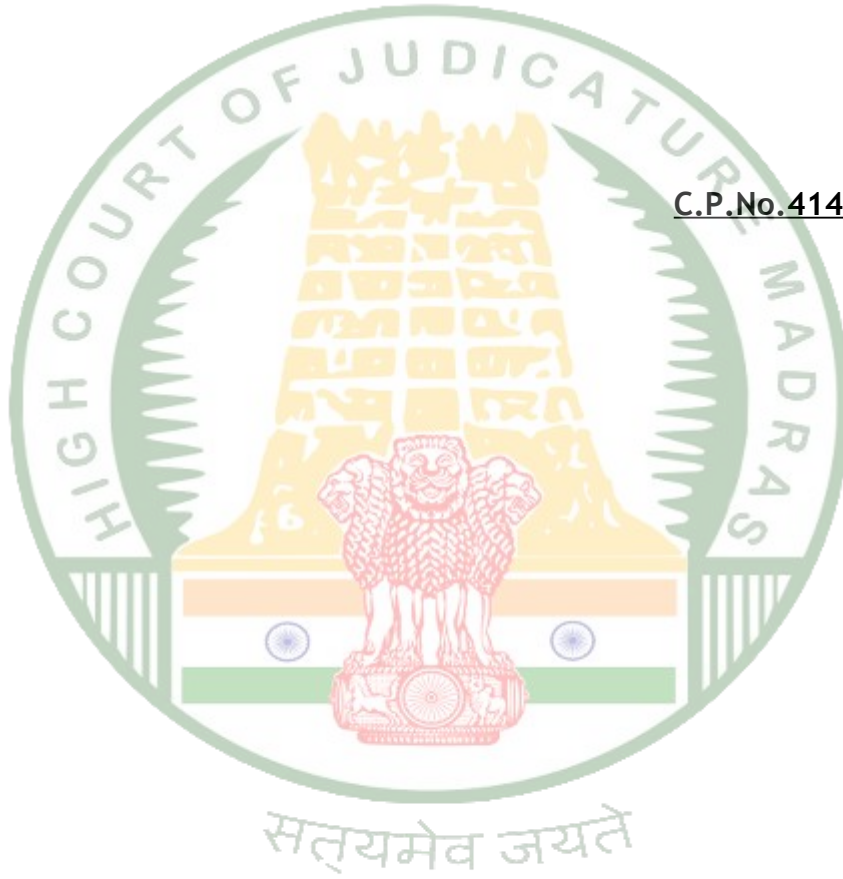
In the light of the narrative supra, instant OP is disposed of as closed.

26.04.2019

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M.SUNDAR.J.,

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