$~CP-28

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

% ***Date of Decision*: 21.01.2019**

\+ CO.PET. 1/2019

IN THE MATTER OF BURGUNDY TRADINGS PRIVATE LIMITED (IN VOL.LIQN.) .... Petitioner

Through Mr.D.Bhattacharya, Adv for OL.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

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

1. This petition is filed by the Official Liquidator (OL), under Section 497 (6) of the Companies Act, 1956, in relation to the Voluntary Liquidation of the company, namely, BURGUNDY TRADINGS PRIVATE LIMITED, which is in pursuance to a request received by him from Ms. Rita Choudhrie, Voluntary Liquidator, so appointed by the said Company.

2. The crux of the matter is that the Company, which was in business of trading, import & export of engineering goods, apparels, agriculture products etc., in an Extra Ordinary General meeting held in pursuance to the provisions of section 484(1) of the act, passed a special resolution to wind up its operations and hence dissolve itself, voluntarily, on 12.03.2008. In the very meeting Ms. Rita Choudhrie was appointed as the Voluntary Liquidator.

3. Thereafter, on 19.03.2008 the citation for members voluntary winding up of the company and appointment of voluntary liquidator was published in the newspapers namely "The Financial Express" (English) and "Veer

Arjun"(Hindi). And on 12.04.2008 citation was published in "The Official Gazette".

4. Thereafter, public notices were brought out, and the Registrar of Companies, was intimated in this regard. Post fulfilment of the requisite compliances, the no-obiection certificates from Income Tax Department and Registrar of Companies were received recently on 17.07.2018 and 02.11.2018.

5. Whilst making submissions, the Ld. Counsel for Official Liquidator pointed out the following particulars/ facts:-

i. the Board of Directors issued a 'Declaration of solvency" and filed it with the concerned ROC, thereby stating that the liabilities of the Company could be paid off within a period of one year from commencement of winding up;

ii. Voluntary Liquidator has submitted her affidavit & indemnity bond dated 19.04.2018 and 16.04.2018, thereby undertaking to keep any prospective claimant, etc. indemnified against loss or damage.

iii. On 13.11.2017 and 09.12.2017, pursuant to section 497 (1) of the act read with Rule 329, the notice in form 155 of the company court rules, 1959, for convening the final meeting of shareholders proposed to be held on 16.01.2018 were published by the liquidator in the daily newspaper namely "The Financial Express"(English) and "Jansatta"(Hindi), and in Official Gazette (English & Hindi).

iv. As per Voluntary Liquidator's account, the affairs of the Company were fully wound up by 28.02.2017, which was laid before the shareholders' meeting on 16.01.2018, which was unanimously approved by the shareholders and a requisite filing was made with the concerned ROC on 23.01.2018.

v. The Official Liquidator attached to this Hon'ble Court, recorded a satisfaction that the affairs for winding up has not been carried out in any manner which could be prejudicial to interest of shareholders or public.

6. Pointing out the aforesaid gist of the factual scenario, Mr. D. Bhattacharya, Learned Counsel for the Official Liquidator submits that nothing in law prevents the shareholders and directors to wind-up the Company which they formed, or were a part of it, at one point of time. The Learned Counsel states that a perusal of the account of the Voluntary Liquidator shows that whatever liability the Company had in its balance sheets were dealt with. Accordingly, he submits, that this Hon'ble Court may allow the petition and hence dissolve the company.

7. Having heard the learned counsel for the OL, I may note that the Official Liquidator has recorded his satisfaction that nothing is seen to be prejudicial to the shareholders or the public interest. Accordingly, this petition is allowed. The Company, Burgundy Tradings Private Limited, stands dissolved from the date of filing this petition. The Voluntary Liquidator and the Official Liquidator may intimate the concerned Registrar of Companies about this order for necessary compliance, within a period of 30 days hereof.

JAYANT NATH, J.

JANUARY 21, 2019/sp