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

\+ CO.PET. 477/2016

COILS INDIA ELECTRONICS PVT LTD ..... Petitioner

Through Mr.Jeetender Gupta, Adv.

versus

ASSOCIATED LIGHTING SYSTEM PVT LTD..... Respondent

Through Ms.Sheetal Mishra, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

<u>O R D E R</u>

% **07.03.2019**

1. Present petition is filed under section 433(e), 434 and 439 of the Companies Act, 1956 seeking winding up of the respondent company. The case of the petitioner is that since 2012 the petitioner has been regularly supplying goods to the respondent company as per their demand alongwith the invoice for each transaction. Hence, the respondent company is indebted to the petitioner for a sum of Rs.9,53,693/- for outstanding payments towards the invoices issued. Statutory legal notice was sent to the respondent on 15.2.2016. There is no reply to the same.

2. I have heard learned counsel for the parties. Learned counsel for the petitioner has pointed out that subsequent to filing of the winding up petition an award had been passed on 24.6.2017 in the Arbitration proceedings in favour of the petitioner for the sum of Rs.9,53,693/- alongwith interest and costs i.e. the amount which was claimed in the statutory legal notice. He further states that the respondents have not filed any petition under section 34 of the Arbitration and Conciliation Act, 1996 against the said Award and the Award has attained finality. The petitioners have also filed an Execution

Petition against the respondent which is stated to be pending before the appropriate court.

3. Learned counsel has also taken me through the copies of the Central Sales Tax Form C to submit that these forms were duly issued by the respondents acknowledging their liability to pay.

4. Learned counsel for the respondent has pointed out that as the petitioner has an alternative remedy of filing an Execution Petition which remedy it has already availed it would be fit for this court not to entertain the present petition.

5. In my opinion, the submission of learned counsel for the respondent is misplaced. It is quite clear that subject matter of the present dispute, namely, the claim raised by the petitioner for the stated sum of Rs.9,53,693/- has been upheld also in the arbitration proceedings by an Award dated 24.6.2017 passed by the Sole Arbitrator Shri J.S.Jangra, ADJ (Retd.). Despite lapse of one and half year since passing of the Award no payment has been tendered by the respondent. It is manifest that the respondent is unable to pay its dues. The petition stands allowed accordingly.

6. The Official Liquidator attached to this Court is appointed as the Provisional Liquidator. He is directed to take over all the assets, books of accounts and records of the respondent-company forthwith. The citations be published in the Delhi editions of the newspapers ‘Statesman’ (English) and ‘Veer Arjun’ (Hindi), as well as in the Delhi Gazette, at least 14 days prior to the next date of hearing.

7. Petitioner shall deposit a sum Rs.75,000/- towards cost of the publication with the Official Liquidator within 2 weeks, subject to any further amounts that may be called for by the liquidator for this purpose, if

required. The Official Liquidator shall also endeavour to prepare a complete inventory of all the assets of the respondent-company when the same are taken over; and the premises in which they are kept shall be sealed by him. At the same time, he may also seek the assistance of a valuer to value all assets to facilitate the process of winding up. It will also be open to the Official Liquidator to seek police help in the discharge of his duties, if he considers it appropriate to do so. The Official Liquidator to take all further steps that may be necessary in this regard to protect the premises and assets of the respondent-company. The OL will also seize all the bank accounts of the respondent.

8. Petition stands disposed of. However, liquidation proceedings shall continue to be done by the OL.

9. To await the report of the OL, list on 12.7.2019.

JAYANT NATH, J

MARCH 07, 2019

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