

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

**PRESENT
THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY**

COMPANY APPLICATION NO. 386 OF 2001

IN

COMPANY PETITION NO: 38 OF 1999

In the matter of the Companies Act, 1956

And

In the matter of M/s. Doctor Biscuits (P) Ltd. (In Liqn.)

Between:

M/s. Doctor Biscuits (P) Ltd. (In Liqn.) rep. by the Official Liquidator , High Court of
Andhra Pradesh , Hyderabad. .. Complainant

And

1. Sri B.S. Amarnath S/o. B. Srinivasa Murthy, Ex- Managing Director, R/o. Plot No. 40, Durganagar Colony, Chittoor District 517 002.
2. Smt. G. Swarupa Rani, W/o. G. Vittal Rao, Plot No. 27, ICRISAT Colony, Tarbundi, Secunderabad.
3. Sri Kodanda Ramaiah Shetty S/o. Venkata Chalapathy Shetty, Khata No. 2663, Opp: Sri Kanyaka Parameswari Temple, Big Bazaar, Kalar, Karnataka State.
4. Sri T. Chandra Sekhar Reddy S/o. T. Narayan Reddy Thalupula Palli (Vill & Post), Puthalapattu Mandal, Chittoor District.
5. Sri A. Kumar Reddy S/o. A. Sri Ram Reddy, Plot No. 1, Usha Nagar Colony Chittoor District. .. Accused
6. Sri B. Surendranath, S/o. Late Srinivasa Murthy C/o. Sridevi Restaurant, Rajkamal Talkies Road, Mysore, Karnataka State. .. Discharged as
Accused

(Respondent Nos. 4 to 6 are impleaded as per order dated: 22-03-2002 in C.A. No. 866 of 2001 and subsequently the Hon'ble Division Bench by an order dated 03-09-2002 in O.S.A. No. 44/2002 discharged as Accused in C.A. No. 386/2001)

Company Application Under Section 454 (5) & (5 A) of the Companies Act, 1956 read with Rule 125 and 132 of the Companies (Court) Rules, 1959 praying that this Hon'ble Court may be pleased

i. Summon the accused and punish them under sub-section (5) and (5A) of Section 454 of the Companies Act, 1959 for non- compliance of the requirements of sub-section (1) (2) and (3) of the said section of the Act.

ii) order the costs of this application to be borne by accused jointly and severally and

This Application coming on for orders upon reading the Judge's Summon and the affidavit dated 3-07-2001 and filed by Sri M. Subbarayulu, Official Liquidator, in support of this Application and upon hearing the arguments of Sri J. Sreenadh Reddy, Counsel for the Official Liquidator on behalf of the Applicant and Sri A.L. Raju, Advocate for the Respondent No. 1 and Sri B. Rajendra, Advocate for Respondent No.2 and Sri K. Sudhakar, Advocate for the Respondent No.3 and of Sri S. Rama Moorthy Reddy, Advocate for the Respondent Nos.4 & 5 and of Sri Sriram Reddy, Advocate for the Respondent No. 6.

THE COURT MADE THE FOLLOWING: ORDER

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Company Application No.386 of 2001 In Company Petition No.38 of 1999

ORDER

This application is filed for the following reliefs:

1. To summon the accused and punish them under sub-section (5) and (5A) of Section 454 of the Companies Act, 1956 for non-compliance of the requirements of sub-section (1) (2) and (3) of the said Section of the Act;
2. Order the cost of this application to be borne by the accused jointly and severally; and
3. Pass such further order or orders as this court may deem fit and proper.

Learned counsel appearing for Official Liquidator submits that this court in identical facts and circumstances in Company Application No.419 of 2003 in Company Petition No.155 of 2000 dated 01.08.2019 closed the similar company application, and hence the same order may be passed.

Vide order of this court dated 08.11.2000 made in C.P.No.38 of 1999, M/s Doctor Biscuits Pvt. Ltd (In liquidation), was wound up and the Official Liquidator attached to this High Court, was appointed as Liquidator.

The Official Liquidator filed report dated 28.02.2020, and a perusal of the same would disclose that the official liquidator on examination of the balance sheet as on 31.03.1999 and statement of affairs dated 01.07.2002, and the order of winding up dated 08.11.2000, submits that there are no immovable properties at all to recover/realize by the Official Liquidator. Further, whatever movables received, were sold and an amount of Rs.2,200/- was realized and the leftover assets of sundry debtors is Rs.9,33,765/- and they are found to be not realizable with the available material on record and due to non-availability of relevant books / vouchers etc. Therefore, the Official Liquidator found that there are no assets available for liquidation.

In the report of the Official Liquidator it is stated that he received letter dated 18.02.2020 from Sri C.Prithvi Raj expressing to obtain the brand name of the company in liquidation. However, he has not quoted any price for the same despite of oral request. Further, the status of trade mark is not active as the same is classified as "REMOVED/ABANDONED". In view of lapse of considerable time resulting in erosion of brand value, it may not fetch any value in liquidation. That assistance of Chartered Accountant was sought orally to value the brand name and in turn, they expressed their inability to carryout such exercise, hence he (Official Liquidator) caused detailed examination as above by himself with the available material on record. The balance available to the credit of the company in liquidation is Rs.-472/- as on date. It is further stated that liabilities are more and assets are not sufficient (nil in fact) at all to discharge the liabilities.

As there are no transactions worth mentioning and no assets lying to the credit of the company in liquidation, learned counsel for the Official Liquidator submits that appropriate orders may be passed by this court.

As per the report of the Official Liquidator, it is evident that there are no assets to be liquidated. It may also be further noticed that the company in liquidation is M/s Doctor Biscuits, and it ceased to operate from the year 2000 itself, and therefore, no useful purpose would be served by keeping the matter pending, and by inviting claims from anyone as there are no assets to be liquidated and no disposal funds available to the credit of the company in liquidation.

In these circumstances, and also the order passed by this court in Company Application No.419 of 2003 in Company Petition No.155 of 2000 dated 01.08.2019, the present company application is closed.

The Official Liquidator shall take further steps in the matter for dissolution of the company.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

SD/-K. GANGADHAR RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Official Liquidator M/s. Doctor Biscuits (P) Ltd. (In Liqn) High Court at Hyderabad for the state of Telangana 1st floor corporate Bhawan, Nagole, Bandlaguda Thattianaram Village, Hayathnagar Mandal, Ranga Reddy District Telangana State Pin Code 500 680.
2. The Registrar of Companies, Ministry of Corporate Affairs, Government of India 2nd floor Corporate Bhawan, Nagole, Bandlaguda, Thattianaram Village Hayathnagar Mandal, Ranga Reddy District, Telangana State Pin Code 500 680.
3. The Regional Director, South Eastern Region, Ministry of Corporate Affairs, 3rd floor Corporate Bhawan, Nagole, Bandlaguda, Thattianaram Village Hayathnagar Mandal, Ranga Reddy District Telangana State Pin Code- 500 680.
4. One CC to Sri A.L. Raju, Advocate (OPUC)
5. One CC to Sri B. Rajendra, Advocate (OPUC)
6. One CC to Sri K. Sudhakar, Advocate (OPUC)
7. One CC to Sri S. Rama Moorthy Reddy, Advocate (OPUC)
8. One CC to Sri S. Sriram Reddy, Advocate (OPUC)
9. Two C.D.Copies



HIGH COURT

DATED:09/09/2020



ORDER

COMPA.No.386 of 2001

IN

COMPANY PETITION NO. 38 OF 1999

CLOSING THE COMPANY APPLICATION

SSV
10 copies
Dt- 10/11/2020