

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.646 OF 2019
IN
COMPANY PETITION NO.149 OF 2016**

Pegasus Assets Reconstruction Pvt. Ltd.Applicant

V/s.

Official Liquidator and Ors.Respondents

IN THE MATTER BETWEEN :

Prasum Metals Private LimitedPetitioner

V/s.

Oren Kitchen Appliances Pvt. Ltd.Respondents

Mr. Mayur Khandeparkar i/b. Mr. Vishwas Deo and Mr. Karun Janghani
India Law for applicant.

Ms. Prachi Raval i/b. Mr. Satyan Israni for resolution professional/
respondent no.2 in IA/646/2019.

Mr. Mahendhar Aithe, Company Prosecutor present.

**CORAM : K.R.SHRIRAM, J.
DATED : 23rd FEBRUARY 2021**

P.C. :

1 This application is for recall of order dated 24th July 2019 by which respondent company Oren Kitchen Appliances Pvt. Ltd. was ordered to be wound up and Official Liquidator of this Court was appointed as the Liquidator of the company. It was not brought to the notice of the Court that the NCLT, Mumbai had passed a CIRP order dated 19th June 2018 and a moratorium had come into effect. Under the said order, respondent no.2 had been appointed as the Insolvency Resolution Professional. It was his duty to have appeared on 24th July 2019 and apprised the Court about the developments in NCLT. Ms. Raval states that respondent no.2 was not aware

about the company petition and hence, did not appear. Mr. Khandeparkar states that respondent no.2 cannot state that he was not aware because the fact that a petition had been filed must have been known to the management of the company and respondent no.2 should have made efforts to find out on the legal proceedings against the company when everything was available online. Mr. Khandeparkar states that the registered office of respondent company was in Bombay and certainly, a check in the website of the Bombay High Court would have revealed which are the petitions pending. I have to note that even the NCLT, Mumbai in its order of 9th October 2019 has expressed its displeasure in the manner in which respondent no.2 has handled the insolvency resolution process. I would agree with the NCLT's opinion on this.

2 In my view, in view of the factual position narrated above, the application has to be allowed. Mr. Aithe also agrees that the application has to be allowed.

Accordingly, the order dated 24th July 2019 is recalled.

3 Respondent no.2 is directed to give notice, on or before 5th March 2021, in Free Press Journal (in English) and Navshakti (in Marathi) about the recalling of the order dated 24th July 2019 and inviting claims. Respondent no.2 shall also consider the claim in this petition no.149 of 2016 as a claim and deal with the same in accordance with law. All those parties who have a claim will have the time prescribed in the Insolvency and Bankruptcy Code to lodge their claim from the time this notice is published.

4 Mr. Aithe states that in view of the order dated 24th July 2019 the office of Official Liquidator has put in lot of efforts and therefore, the Court should grant some cost. Therefore, respondent no.2 is directed to pay a sum of Rs.10,000/- as cost to the office of the Official Liquidator and this amount shall be paid within two weeks from today.

5 Registry to transfer, within one week from today, this company petition no.149 of 2016 with all other records and proceedings and orders to NCLT, Mumbai to be tagged with the pending applications/petitions before the NCLT, Mumbai.

6 Interim application accordingly stands disposed.

(K.R. SHRIRAM, J.)

Gauri A.
Gaekwad
Digitally signed
by Gauri A.
Gaekwad
Date:
2021.02.24
17:52:09
+0530