IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

COMPANY PETITION 10 OF 2012

M/s. Ashok Polymers Ltd.,
a company incorporated under
the Indian Companies Act, 1956
and having its Registered Office
at 13-4-606/1/2, Ziaguda,
Hyderabad – 500 006 and
works at A-6/2, MIDC, Chincholi,
Solapur, through its Director
Shri Nawal Kishor s/o.
Late Murlinarain Bung. ......**PETITIONER**

...V E R S U S...

Murli Industries Limited,
a company incorporated under
the Indian Companies Act, 1956
and having its Registered Office
at 101, Jai Bhawani Society,
Central Avenue, Wardhaman Nagar,
Nagpur 440 008, through its
Directors ... **RESPONDENT**

Mr. S.V. Bhutada, counsel for petitioner.
Mr. Anjan De, counsel for provisional liquidator.

CORAM: ROHIT B. DEO, J.
DATE : 29.01.2021

ORAL JUDGMENT:

Heard Mr. S.V. Bhutada, the learned counsel for the petitioner and Mr. Anjan De, the learned counsel for provisional liquidator.

2. This petition is preferred under sections 433(e), 434(1) of the Companies Act, 1956 for winding up on the ground that the company is not in a position to repay the debts of the creditors.

3. The erstwhile Resolution Professional of M/s. Murli Industries Limited Mr. Vijaykumar V. Iyer has filed an affidavit in Company Application 10/2017 in Company Petition 6/2012, which states that he verified the claim submitted by the creditors/ stakeholders of the company and after closure of the process, Dalmia Cement (Bharat) Limited (Dalmia") a resolution applicant, proposed a resolution plan for the revival of the company which was approved by unanimous vote of the committee of creditors in the meeting dated 20.12.2017. It is further stated that during the pendency of the insolvency process, and as directed by this Court, a Public Announcement dated 30.11.2018 was published in prominent newspapers inviting all creditors and stakeholders to resubmit their claims by December, 2018. It is then stated that the claims received were verified in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. Paragraph 6 of the affidavit reads thus:

*"6. I say that I filed an application before the NCLT seeking its approval of Dalmia's resolution plan. The NCLT vide orders dated July, 3, 2019 and July 22, 2019 ("**Plan Approval Orders"**),* finally approved the resolution plan of Dalmia. A copy of the Plan Approval Order is annexed hereto and marked hereto as **Annexure – A**".

4. Paragraphs 7 to 12 are also relevant, and read thus:

"7. I submit that pursuant to the passing of the Plan Approval Orders by the NCLT, the Managing Committee ("MC") was appointed consisting of members of Committee of Creditors (CoC) to manage the affairs of the Corporator Debtor till the takeover of the Corporate Debtor by Dalmia. Accordingly, I demitted office with effect from July, 26, 2019".

"8. Since Dalmia's resolution plan was approved by the NCLT, steps were being taken by the MC and Dalmia for takeover of the Corporate Debtor's business by Dalmia".

*"9. Soon after the passing of the Plan Approval Orders, seven appeals were filed by various parties before the Hon'ble National Company Law Appellate Tribunal ("**NCLAT**") (**Appeals**"). The Appeals were then argued at length by all the parties and accordingly the NCLAT passed its judgment dated January 24, 2020, thereby dismissing all the Appeals. A copy of the judgment dated January 24, 2020 passed by NCLAT is annexed hereto and marked as **Annexure – B".***

*"10. I say that pursuant to the dismissal of the Appeals, various stakeholders filed appeals before the Hon'ble Supreme Court of India ("**Supreme Court**"). Out of the appeals filed before the Supreme Court, three appeals were listed on November 20, 2020. All such listed appeals were disposed of by the Supreme Court*

by an order of equal date. A copy of the order dated November 20, 2020 passed by the Supreme Court is annexed hereto and marked as ***Annexure – C"****.*

"11. I say that around September 25, 2020, Dalmia completed the takeover of the business of the Corporate Debtor and the MC has ceased to manage the affairs of the Corporate Debtor's business".

"12. I say that in light of the above, the CIRP of the Corporate Debtor has been successfully completed".

6. In view of the subsequent developments referred to supra, the instant petition seeking winding up of M/s. Murli Industries Limited, is disposed of.

Judge

Belkhede RS