



Company Application No.636 of 2015
in Company Petition No.53 of 2013

WEB COPY

KRISHNAN RAMASAMY, J.

This Company Application has been filed for the following reliefs:

- (i) To take cognizance of the offence committed by the accused 1 to 3 under Section 454(5A) of the Companies Act, 1956 for non-filing of statement of affairs with the Official Liquidator and impose punishment as laid down under Section 454(5) of the Companies Act, 1956 (hereinafter referred to as 'Act').
- (ii) To direct the accused to file forthwith the statement of affairs with the Official Liquidator and
- (iii) To direct the cost of the application do come out of the funds of the company.

2. The learned Official Liquidator submitted that this Court vide its order in Company Petition dated 19.08.2013, wound up the Edserv Softsystems Limited company and appointed the Official Liquidator to take charge of all the assets and effects of the said company and further, directed the respondents (Ex-Directors of the said company) to file the Statement of Affairs before the Official Liquidator,



within a period of 21 days. He further submitted that as per the provisions of Section 454(3) of the Act, the Ex-Directors of the company in liquidation are required to submit the Statement of Affairs with the Official Liquidator. Hence, the Official Liquidator has sent individual Notice to the respondents and requested them to file the Statement of Affairs forthwith, but, the respondents had not filed the same. Therefore, the present application has been filed for the aforesaid reliefs.

3. The learned counsel appearing for the respondents submitted that as per the aforesaid order of this Court, the first respondent (one of the Ex-Directors of the company in liquidation) submitted the Statement of Affairs before the Official Liquidator on 23.09.2014. However, the Official Liquidator requested the first respondent to furnish all the information about the affairs and assets of the company in liquidation since the Statement of Affairs submitted by him on 23.09.2014 was not in a proper format. Hence, the first respondent has submitted the Statement of Affairs in the prescribed format, before the Official Liquidator, on 03.01.2023.



4. In view of the above submissions made by the learned Official Liquidator as well as the learned counsel appearing for the respondents, this Court directs the Official Liquidator to verify the Statement of Affairs submitted by the first respondent on 04.01.2023 as to whether the same is in the prescribed format and proceed further.

5. Since the Statement of Affairs was filed by the Ex-Directors of the company in liquidation, this Court is not inclined to initiate the proceedings in terms of Section 454(5A) of the Companies Act, 1956, for the present.

6. This Company Application is disposed of with the above direction.

17.03.2023

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