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

Date of Decision: 1st August, 2023

\+ **CO.PET. 23/2003 & CO.APPL. 536/2023 & OLR 7/2016**

RE-VIKAS MOTORS P. LTD. ..... Petitioner

Through:

versus

.... Respondent

Through: Mr. Rishi Manchanda, Standing Counsel with Mr. Siddharth Mullick, Advocate for OL.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present application has been filed by the Official Liquidator under Section 481 of the Companies Act, 1956 (*hereinafter 'the Act'*) read with Rule 9 of the Companies (Court) Rules, 1959 (*hereinafter 'the Rules'*), thereby praying that the Company (In Liquidation), i.e., Vikas Motors Pvt. Ltd., be finally dissolved and the Official Liquidator, Delhi, be discharged as its Official Liquidator.

3. It is stated in the application that Vikas Motors Pvt. Ltd., was ordered to be wound up by this Court vide its order dated 11th August, 2004 and the Official Liquidator attached to this Court was appointed as the Provisional Liquidator of the said Company. It is stated that Statement of Affairs had not been filed by the Ex-Directors.

4. In terms of the order dated 26th March, 2008, the plant, machinery and other items lying at the registered office of the Company (In Liqn.), situated at 34, Rama Road, New Delhi-110015 was sold for Rs.25,00,000/- to one Sh. Noor Mohd. and the sale amount was deposited by the auction purchaser with the Official Liquidator on 27th November, 2006. Subsequently, the landlord of the premises repaid an amount of Rs.15,00,000/- which was paid as the advance rent by the Company (In Liqn.), which was to be repaid on vacation of the premises by the Company (In Liqn.), in terms of the Clause XII of the rent agreement. It is submitted that the claims in the Company (in Liqn.) were invited on 15th February, 2007.

5. In compliance of order dated 20th December, 2011, M/s Uday Pratap and Co., were appointed as Chartered Accountant from the panel of the Official Liquidator for adjudicating the claims received by the Official Liquidator. The Official Liquidator received 95 claims, which were forwarded to the Chartered Accountant. It has been specified that out of 95 claims, 57 were workers, 35 were preferential creditors (Ex-Employees) and 3 were Unsecured Creditors. The Chartered Accountant admitted 88 claims of 54 workers, 33 preferential creditors (Ex-Employees) and 01 Unsecured Creditor and rejected 7 claims of 3 workers, 2 preferential creditors (Ex-Employees) and 2 (Unsecured Creditors.

6. In terms of order dated 15th May, 2013, out of 88 claims, the payment of 49 workers and 22 preferential creditors (Ex-Employees) stands paid through RTGS mode after obtaining their bank details and undertaking.

7. However, it has been averred that excess payment to the tune of Rs.14,27,200/- was made to the Income Tax Department. The Income Tax

Department has refunded an amount of Rs.14,23,446/- to the office of Official Liquidator.

8. Vide order dated 13th September, 2019, this Court permitted the Official Liquidator to transfer an amount of Rs.6,18,816/- towards 17 workers as unclaimed dividend to the Reserve Bank of India (RBI) because the said 17 works/unsecured creditors did not provide the document and/or provided incorrect bank details. However, subsequently, it was revealed that as per the bank statement one of the claimants out of 17 claimants, Mr. Satya Pal Sharma has already been disbursed an amount of Rs.1,03,381/. Thereafter, vide order dated 13th September, 2019, this Court permitted to pay the balance dues of another ex-staff member, namely Sh. Laxmi Dutt, but since he also failed to provide correct bank details, as such, the balance dues court not be paid to him.

9. It has been averred that the fund position of the Company (In Liqn.) is Rs.5,52,979/- after deducting the additional expenses of Rs.2,87,311/- incurred during April 2020 to March 2023 and since the said 17 workers/unsecured creditors have not provided either the documentation or the correct bank details, the amount of Rs.5,00,659/- pertaining to the said persons be permitted to be transferred to Reserve Bank of India as unclaimed dividend.

10. It is made clear that if any of the 16 workers/ unsecured creditors are traceable and make any claims with the Official Liquidator (OL), the OL shall assist the said workers to obtain their payments from the RBI. Accordingly, in view thereof, the company shall stand liquidated.

11. The Office of the Official Liquidator has now left with no funds of the Company (In Liqn.) to satisfy any further claims of the creditors and the

assets that were taken over by the Office of the Official Liquidator of the Company (In Liqn.) have already been liquidated. The money which was received after the liquidation of the assets of the Company (In Liqn), has been utilised to satisfy the claims of the secured creditors and also in the liquidation process.

12. The Fund Position of the Co. (in Liqn.) as on 6th July, 2023 is stated to be Rs.5,52,929/-. Therefore, the Official Liquidator has sought permission to remit a sum of Rs.52,270/-towards the Government Fee, Audit Fee and Liquidation Expenses from the account of the Company (in Liqn.) and transfer the balance funds available if any, to the Common Pool Fund maintained in the office of the Official Liquidator.

13. The Supreme Court in ***Meghal Homes (P) Ltd. v. Shree Niwas Ginni K.K. Samiti & Ors. (2007) 7 SCC 753***, has held the following:

> *"When the affairs of the Company had been completely wound up or the court finds that the Official Liquidator cannot proceed with the winding up of the Company for want of funds or for any other reason, the court can make an order dissolving the Company from the date of that order."*

14. It has further been clarified that the Official Liquidator has not seized any other moveable/ immoveable property of the Company (In Liqn) and it has been submitted that since there is no asset of the Company (In Liqn.) in the hands of the Official Liquidator for realization, no fruitful purpose will be served to continue the present liquidation proceedings, as such, it is prayed for the dissolution of the Company under Section 481 of the Companies Act, 1956.

15. This Court has heard ld. Counsel for the Official Liquidator and perused the application as well as the documents. In view of the above decision of the Supreme Court and the facts and circumstances of this case, the liquidation proceedings deserve to be brought to an end. Accordingly, Vikas Motors Pvt. Ltd. is dissolved. The Official Liquidator is permitted to transfer an amount of Rs.5,00,659/- pertaining to the aforesaid 17 workers/unsecured creditors who have neither provided the documentation or the correct bank details, to Reserve Bank of India, as unclaimed dividend. The Official Liquidator is further permitted to make payment/create provisions towards the Government Fee, Audit Fee and Liquidation Expenses from the account of the Company (in Liqn.) and transfer the balance funds available, if any, to the Common Pool Fund maintained in the office of the Official Liquidator.

16. The Application is allowed in the aforesaid terms. Application is disposed of.

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17. The Official Liquidator is permitted to close the books of account of the Company. A copy of this order be communicated to the Registrar of Companies within 30 days by the Official Liquidator.

18. The Petition is disposed of and the Official Liquidator is discharged. All pending applications if any are also disposed of.

PRATHIBA M. SINGH
JUDGE

AUGUST 1, 2023
dj/am