IA NO. CA/1/2024
In CP/132/1970
IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

TOSH METAL & ALLOYS INDUSTRIES PRIVATE LIMITED (IN LIQUIDATION)

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 10th September, 2024.

Appearance:-
Ms. Smita Das De, Adv.
...for applicant.

The Court : CA 1 of 2024 has been filed *inter-alia* seeking directions for dissolution of Tosh Metal & Alloys Industries Private Limited, the company (in liquidation). The Status Report filed by the Official Liquidator be kept with the records.

By an order dated 5 August, 1970, Tosh Metal & Alloys Industries Private Limited was directed to be wound up and the Official Liquidator was directed to take possession of the assets both moveable and immoveable and the books of records of the company (in liquidation).

During the pendency of the liquidation proceedings, the Official Liquidator had sold all the assets of the company (in liquidation) as far back as around 1971 and there are no assets whether moveable or immoveable which remain to be sold or in the possession of the Official Liquidator.

This Company Petition has been pending since 1970. The present fund position of the company (in liquidation) is Rs.821/-.

There are no books of accounts nor records of the company (in liquidation) which are traceable and hence, any direction afresh for preparation of the audited accounts of the company (in liquidation) as contemplated under Rule 281 of the Companies (Court) Rules 1959 is an empty formality.

In the absence of any available records any expenditure towards advertisements is also commercially imprudent. The Status Report of the Official Liquidator suggests that after a lapse of approximately 54 years nothing survives in the affairs of the company (in liquidation) and the Official Liquidator has no records nor knowledge of the same.

The Official Liquidator is also not in a position to confirm whether there are any creditors of the company (in liquidation) which exist or not. There are no pending proceedings in respect of the company (in liquidation). There is also no available information nor records pertaining to any proceeding which had been initiated against any director or officer of the company (in liquidation). In view of the above, no purpose would be served in allowing this proceeding to remain pending *ad infinitum.*

In the above facts and circumstances, it is just, reasonable and in the interests of justice to dissolve the company (in liquidation) inter-alia under Rule 9 of the Companies (Court) Rules 1959. (*Unreported decision dated 01.07.2022 inCP 7 of 1976 M/s. Dwarka Chit Fund Private Ltd. vs. The Official Liquidator*).

The Official Liquidator is directed to make payment of the available balance of Rs. 821/- to the Public Account of India lying with the Reserve

Bank of India in a separate account known as "Companies Liquidation Account" in terms of section 555 of the Companies Act, 1956 read with Rule 283 of the Companies (Court) Rules, 1959.

The Official Liquidator shall also dispose whatever remaining books and records of the company (in liquidation) immediately after the expiry of 5 years from the date of dissolution of the company (in liquidation) as stipulated in section 550(1) and (2) of the Companies Act, 1956.

In view of the above, the prayer for final dissolution of the company (in liquidation) stands allowed on the above terms and conditions. CA 1 of 2024 stands disposed of. CP 132 of 1970 also stands disposed of.

(RAVIKRISHAN KAPUR, J.)

J.Das/R.K.Pal