



WEB COPY



Comp.A.No.550 of 2017

in

C.P.No.264 of 2013

Krishnan Ramasamy, J.,

This Company Application is filed seeking the following prayers:

- “i) To take cognizance of the offence committed by the accused (SI.No.1 to 2) Under Section 454(5A) of the companies Act, 1956 for non-filing of Statement of Affairs with the Official Liquidator and impose the maximum punishment as laid down under Section 454(5) of the Companies Act, 1956.
- ii) To direct the accused to file forthwith the Statement of Affairs with the Official Liquidator.
- iii) To direct that the cost of this application do come out of the funds of the Common Establish Charges Account.

2. Ms.B.Ambili, Deputy Official Liquidator submitted that, this Court vide order dated 21.04.2016 made in C.P.No.264 of 2013 appointed the Official Liquidator as the Provisional Liquidator of the company with directions to take charge of the assets of the company (in provisional liquidation). The Ex-



Directors of the company in liquidation have filed their Statement of Affairs only on 23.07.2018 with a delay of two years. Thereafter, the Official Liquidator has issued a letter dated 14.08.2018, seeking certain clarifications as regards to the information contained in the Statement of Affairs. In reply, the Ex-Directors of the company under liquidation have made some clarifications only on 29.10.2021 after the expiry of more than three years. Upon receipt of them, the Official Liquidator have filed a report dated 09.12.2021, indicating the queries and clarification required from the Ex-Directors of the company under liquidation. However, such queries have not been answered till date by the Ex-Directors of the company under liquidation, the present application came to be filed to punish them in accordance with law. Therefore, she requested this Court to pass appropriate orders.

3. It is clear that the Statement of Affairs has to be filed as per the provisions of Section 454(1) to (3) of the Companies Act, 1956 before the Official Liquidator within a prescribed period. However, in the present case, the Ex-Directors of the Company in liquidation have failed to file their Statement of affairs within a prescribed period under the Act. Therefore, they are liable to be punished and the same can be awarded by this Court.



4. The learned counsel for the respondents would submit that they would cooperate with the Official Liquidator and furnish appropriate information and materials, whatever the Official Liquidator requires.

5. Considering the submission made by the learned counsel for the respondents, this Court directs the respondents to provide required information and shall co-operate with the Official Liquidator for the purpose of smooth conclusion of the proceedings. In the event, if there is a failure on the part of the respondents to cooperate with the Official Liquidator and to provide information and other details, the Official Liquidator is at liberty to re-open this application and, thereafter, this Court will consider the imposition of sentence.

6. With the above, the Company Application is closed.

14.06.2024

jd



WEB COPY



Krishnan Ramasamy, J.,
jd

Comp.A.No.550 of 2017
in
C.P.No.264 of 2013

14.06.2024