



Comp.A.No.685 of 2018

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in

C.P.No.126 of 2016

Krishnan Ramasamy, J.,

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This Company Application is filed seeking the following prayers:

- i) To direct the Respondents 1 to 5 to deliver the books of account, statutory registers, returns, other records and assets of the company in provisional liquidation.
- ii) To direct that the cost of this application do come out of the funds of the company in liquidation.

2. The Deputy Official Liquidator appearing for the applicant is present.

None appeared on behalf of the respondents.

3. Ms.Ambili, Deputy Official Liquidator would submit that, this Court by an order dated 11.07.2016 made in Company petition No.126/2016 has appointed the Official liquidator as the provisional liquidator of the company namely viz., TTL Shipping & Logistics (1) Pvt Ltd with directions to take charge of all the properties and effects of the company. In and by the same order, this Court directed the Ex-directors of the company in provisional liquidation to file a statement of affairs before the Official Liquidator within a period of 21 days as also ordered that the Company Petitioner shall deposit a



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sum of Rs.50,000/- towards initial expenses before the Official Liquidator in the matter.

4. In compliance to the directions of this Court, the learned Official Liquidator has deputed his officials to take possession of the company's Registered office premises situated at No. 10, Kalaimagal Nagar, Palayakara street, Ekkaduthangal, Chennai-32 on 19.08.2016. The Officials initially faced resistance from about 10 employees, however, finally they were successful in taking possession of the Registered office premises in the presence of both petitioning creditor and secured creditor. The Official Liquidator in order to safeguard the assets of the company in liquidation, has engaged to M/s. Universal Security agency, which deployed three security guards.

5. Since the Ex-Directors of the company have not handed over the assets including books of records, the Official Liquidator has issued notice in Form No.99 on 09.10.2018. The Books of accounts and statutory Registers are the basic documents for the liquidation proceedings, the Official Liquidator is filing this application under Section 468 of the Companies Act, 1956.

6. The Official Liquidator has issued Form No.55 (Rule 124) to submit the Statement of Affairs on 21.08.2017. But so far, they have not filed the same



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before the Official Liquidator, without the books and records and assets of the company and the statement of affairs, the Official Liquidator could not make any progress with the liquidation proceedings. In the absence of the above, the Official Liquidator is not able to ascertain the assets of the company.

7. Since the Official Liquidator does not know the information about the assets of the company if any available and is not aware of those assets under whose possession are now, for non-filing of Statement of Affairs, the Official Liquidator has filed separate applications under Section 454(5) and 454 (a) of the Companies Act, 1956 before this Court.

8. The Official Liquidator would further submit that, in the absence of the statutory returns, books, returns and other records, the date of the appointment of the Official Liquidator as Provisional Liquidator, the Official Liquidator is in dark about the asset and liabilities of the company in provisional liquidation and the Official Liquidator is unable to ascertain the details of affairs of the company in provisional liquidation. Therefore, the Official Liquidator could not take any action to recover the dues from the debtors and realize the assets of the company in Provisional liquidation and distribute the same among the creditors of the company in provisional



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9. It is submitted that, the Official Liquidator has issued letters to the Inspector of police on 25.10.2017 and 30.01.2018 to find out the whereabouts of the Ex-Directors of the company and furnish their present address so as to enable the Official Liquidator to take necessary action and to place the matter before this Court. Till date, no reply, has been received from the police Authority.

10. Considering the submission made by the Official Liquidator and on perusal of the report dated 15.11.2018 filed by the Official Liquidator and having satisfied with the reasons averred in the affidavit filed in support of this Application, this Company Application is allowed.

27.06.2024

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