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

\+ ITA 950/2019

PCIT (CENTRAL)-3 ..... Appellant

Through: Mr. Shailendra Singh, SSC with Ms. Anuja Pethia & Ms. Dacchita Shahi, JSCs.

versus

M/S ADVANCE SURFACTANTS INDIA LTD ..... Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **12.01.2024**

1. We take note of the order dated 06 December 2023 passed in ITA No.179/2021, and which reads as follows:

> "1. On the previous date, i.e., 09.11.2023, Mr Aditya Goel, Advocate, had entered appearance on behalf of the Liquidator appointed by the National Company Law Tribunal (NCLT) qua the respondent/assessee.
>
> 1.1 Mr Goel informed us that the assets of the respondent/assessee have already been sold. It is in this context that we had asked Mr Goel to file an affidavit so that the submission that was made across the bar is backed by an affidavit.
>
> 2. Furthermore, we had also asked Ms Anuja Pethia, who appears on behalf of the appellant/revenue, to take instructions as to whether any purpose will be served in continuing with the appeal.
>
> 3. The relevant portions of the affidavit, which is sworn by the Liquidator Mr K.G. Somani, read as follows:
>
> > *"2. That the Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") in respect of the Defendant Company commenced vide order dated 28.05.2019 passed by Hon'ble National Company Law*

Tribunal, Principal Bench, Delhi (hereinafter referred as "Hon'ble NCLT"). That vide the same order, Mr. Kishan Gopal Somani was appointed as the Interim Resolution Professional (hereinafter referred as "IRP") for the Defendant Company. 3. Since no resolution plan was received. on the recommendation of Committee of Creditors (hereinafter refer red as "CoC"), the ***Hon'ble NCLT*** *vide order dated 14.0 1.2020 ordered for liquidation of Defendant Company and appointed Mr. Kishan Gopal Somani (erstwhile IRP of the Defendant Company) as the liquidator (hereinafter referred as "Liquidator"). Copy of the Liquidation Order dated 14.01 .2020 passed by Hon'ble NCLT is annexed herewith and marked as* ***ANNEXURE R-1****.*

4. It is submitted that all the assets of the Defendant Company have been sold and the monies received have been distributed amongst the various stakeholders. That the liquidation bank account of the Defendant Company has been closed after distributing the monies to various stakeholders. Copy of bank account closure details is annexed herewith and marked as ***ANNEXURE R-2.***

5. That the Liquidator has already moved an application for Dissolution of the Defendant Company U/s 54 of the mc Code, 2016 which is pending adjudication before Hon'ble 14.03.2024."

4. A perusal of the aforementioned extract of the affidavit filed by the Liquidator Mr K.G. Somani clearly brings to the fore the fact that the assets of the respondent/assessee have been sold and the money received therefrom has been distributed amongst various stakeholders.

4.1 Thus, the liquidation proceedings stand completed.

5. As a matter of fact, Mr Somani, i.e., the affiant, has also indicated that he has already moved an application under the Insolvency and Bankruptcy Code, 2016 to enable the NCLT to pass an order dissolving the respondent/assessee.

6. It is indicated that the said application is coming up for final disposal before the NCLT on 14.03.2024. Therefore, according to us, no purpose will be served in continuing with the appeal.

7. We may, however, note that Ms Pethia stated that the provisions of Section 179 of the Income Tax Act, 1961 [in short, "Act"] will apply and the money could perhaps be recovered from the directors.

8. The assessment order and the order of the Income Tax Appellate Tribunal clearly indicate that the respondent/assessee is

a public limited company. Therefore, on a plain reading of the provisions of Section 179 of the Act, the said section can have no applicability in this case.

9. Accordingly, the appeal is closed.

10. The case papers shall stand consigned to the court record."

2. Since the respondent/assesses are common and learned counsels are ad idem that this appeal would merit disposal on identical terms, following the order of 06 December 2023 this appeal shall stand disposed of for reasons assigned therein.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 12, 2024/kk