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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CO.PET. 52/2013, CO.APPL. 128/2013, CO.APPL. 2132/2014,
CO.APPL. 614/2015, CO.APPL. 1456/2015, CO.APPL. 2674/2015,
CO.APPL. 373/2017, CO.APPL. 1278/2017, CO.APPL. 201/2018,
CO.APPL. 989/2018, CO.APPL. 312/2019, CO.APPL. 1212/2019,
CO.APPL. 155/2020, CO.APPL. 456/2020, CO.APPL. 396/2023,
CO.APPL. 924/2023, CO.APPL. 969/2024, CO.APPL. 974/2024,
OLR 226/2015(1), OLR 47/2022(2), OLR 136/2024 (3)

ASSETS CARE & RECONSTRUCTION ENTERPRISE LTD.

.....Petitioner

Through: Mr. Vivek Sibal, Senior Advocate
with Ms. Pooja M. Saigal, Mr. Jatin
Dua, Mr. Ankit Mittal, Advocates for
Ex-Directors.

versus

M/S CREW B.O.S PRODUCTS LTD

.....Respondent

Through: Ms. Isha Khanna, Advocate for Mr.
Vishesh Kumar, Advocate for OL.
Mr. Gaurav Mitra, Mr. Atul Sharma,
Mr. Kashish Narang, Ms. Deboshree
Saha and Ms. Lavanya, Advocates.
Mr. Samrat Nigam, Ms. Arpita
Rawat, Advocate for non-applicant in
CA No. 989/2018 and CA No.
1212/2019.
Mr. Dhruv Wadhwa, Advocate for
Applicant in CA No. 396/2023 in Co.
Pet. 52/2013.
Mr. Ateev Mathur and Mr. Amol
Sharma, Advocates for ARCIL.
Mr. Prakhyat Sharma, Advocate for
RIICO.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

26.11.2024

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CO.APPL. 813/2024

1. An Application under Section 434 of the *Companies Act, 2013* ('Act' hereinafter) has been filed on behalf of the Applicant/Prudent ARC Limited, secured creditor for transfer of the present Petition to NCLT, Delhi.
2. It is submitted that the Company Petition bearing CO.PET. No. 52/2013 titled *Assets Care and Reconstruction Enterprises Ltd. vs. Crew B.O.S. Products Limited* was filed in the Court, though the Provisional Liquidator has been appointed and some properties have also been taken over by the Official Liquidator in 2018 but request is made that since nothing fruitful has happened in the present Petition, it may be transferred to NCLT. Learned counsel for the Official Liquidator submits that she be permitted to file a formal Reply.
3. Reliance has been placed on the Judgment of the Apex Court in *Action Ispat and Power Private Limited vs. Shyam Metalics and Energy Limited*, (2021) 2 Supreme Court Cases 641 and *A. Navinchandra Steels Pvt. Ltd. vs. Srei Equipment Finance Limited*, (2021) 4SCC 435.
4. **Submissions heard.**
5. In *Action Ispat and Power Private Limited* (supra), it has been observed that "post admission of a winding-up-petition and after the assets of the company sought to be wound up become in custodial egis and are taken over by the Company Liquidator, Section 290 of the *Companies Act, 2013* would indicate that the Company Liquidator may carry on the business of the company, so far as may be necessary, for the beneficial winding up of the company, and may even sell the company as a going concern. So long as no actual sales of the immovable or movable properties have taken place, nothing irreversible is done which would warrant a Company Court staying



its hands on a transfer application made to it by a creditor or any party to the proceedings. It is only where the winding-up proceedings have reached a stage where it would be irreversible, making it impossible to set the clock back that the Court must proceed with the winding up, instead of transferring the proceedings to NCLT to now be decided in accordance with the provisions of the Code. Whether this stage is reached would depend upon the facts and circumstances of each case.”

6. In view of the observations of the Apex Court, the present Petition is hereby transferred to NCLT, Delhi.

7. All the parties including the Official Liquidator are at liberty to agitate their application/claim, before the NCLT, in accordance with law.

8. The entire record be sent to the learned Registrar, Delhi and the interim orders (if any), to continue till the matter is taken up by the NCLT.

CO.PET. 52/2013, CO.APPL. 128/2013, CO.APPL. 2132/2014, CO.APPL. 614/2015, CO.APPL. 1456/2015, CO.APPL. 2674/2015, CO.APPL. 373/2017, CO.APPL. 1278/2017, CO.APPL. 201/2018, CO.APPL. 989/2018, CO.APPL. 312/2019, CO.APPL. 1212/2019, CO.APPL. 155/2020, CO.APPL. 456/2020, CO.APPL. 396/2023, CO.APPL. 924/2023, CO.APPL. 969/2024, CO.APPL. 974/2024, OLR 226/2015(1), OLR 47/2022(2), OLR 136/2024 (3)

9. In view of the Order passed in CO.APPL. 813/2024, the Petition along with the pending applications disposed of accordingly.

NEENA BANSAL KRISHNA, J

NOVEMBER 26, 2024/RS