IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 1136 OF 2024
IN
COMPANY PETITION NO. 1 OF 2019

Vijaykumar V. Iyer, Liquidator of
Aditya Birla Idea Payments Bank Ltd.
(in liquidation) … Applicant
vs.
Registrar of Companies (Mumbai) … Respondent

In the matter of:
Aditya Birla Idea Payments Bank Ltd. … Petitioner

Mr. Gaurav Joshi, Senior Advocate (through video-conferencing), a/w. Mr. Peshwan Jehangir, Mr. Haabil Vahanvaty and Ms. Roselin Alex, i/b. Khaitan & Co. for applicant.

Mr. Ashish Mehta, i/b. Ethos Legal Alliance for respondent.

CORAM : MANISH PITALE, J.
DATE : 27th JANUARY, 2025

P.C. :

. At the outset, the learned senior counsel appearing for the applicant tendered affidavit of service showing service of notice on the Uttar Pradesh GST authority on 22.01.2025. The same is taken on record. This is in terms of the order dated 03.01.2025, whereby this Court had issued fresh notice to the said authority, returnable today. Despite service, there is no appearance on behalf of Uttar Pradesh GST authority and hence, the application is taken up for consideration.

2. The present petition was filed seeking voluntary winding-up of the petitioner, under Banking Regulations Act, 1949, read with

applicable provisions of the Companies Act. On 28.08.2019, this Court admitted the company petition and the petitioner was directed to advertise about admission of the company petition in two newspapers and to upload the same on its website. An affidavit dated 14.09.2019 was filed on behalf of the petitioner, confirming that the said directions were complied with.

3. By an order dated 18.09.2019 passed in the Company Petition, this Court allowed the same and, *inter alia*, directed that the Petitioner be wound up and the applicant, i.e. Mr. Vijaykumar V Iyer was appointed as the Liquidator of the Petitioner Company (hereinafter referred to as the "Liquidator") with all powers as prescribed under the Banking Regulation Act, 1949, read with the applicable provisions of the Companies Act, 2013 to liquidate the Petitioner. The requirement of having meetings of creditors was dispensed with, in light of the certificate of solvency issued by the Reserve Bank of India and the fact that the Petitioner is in a position to pay all its debts, as and when they accrue. Further directions were issued for intimating the stakeholders and inviting claims from the deposit holders / wallet holders etc. of the Petitioner.

4. Pursuant to the order dated 18.09.2019, the Liquidator took over charge of the assets and operations of the Petitioner and adopted measures to liquidate the Petitioner. The Liquidator has, from time to time, filed various monthly progress reports with this Court in relation to the status of the liquidation process of the Petitioner Company.

5. The learned senior counsel on behalf of the applicant submitted that the Petitioner has surrendered its banking license with effect from 28.07.2020 (Exhibit E).

6. The learned senior counsel on behalf of the applicant further submitted that the Liquidator has paid off in full all creditors and deposit holders of the Petitioner that have been located. However, there were several deposit holders who remained untraceable or did not claim the amounts that were lying in their accounts. Therefore, the Petitioner preferred this application, whereby one of the directions as sought was to transfer the unclaimed amount to the Companies Liquidation Account maintained by the Registrar of Companies ("ROC"), in accordance with the provisions contained in Section 352 of the Companies Act, 2013. By an order dated 16.04.2022, this Court allowed the prayer to transfer the unclaimed amount to the Companies Liquidation Account maintained by the ROC, in accordance with the provisions contained in Section 352 of the Companies Act, 2013. The learned senior counsel on behalf of the applicant submits that on 05.07.2022, the unclaimed amounts were deposited in the ROC account. The Petitioner has filed an affidavit dated 21.11.2022, enclosing 34th monthly Progress Report reporting activities for the period from 18.06.2022 to 17.07.2022 and stating that the deposit of unclaimed money of deposit holders has been made on 05.07.2022.

7. During the pendency of this application, certain income tax proceedings being (i) the income tax penalty proceedings for Assessment Year 2017-18 and (ii) the reassessment proceedings for Assessment Year 2018-19, were initiated against the Petitioner under the Income Tax Act, 1961, which prevented the Petitioner from completing the dissolution. The Petitioner through an application, bearing Interim Application (Lodging) No. 38154 of 2022 sought necessary reliefs and declarations that the said proceedings are

untenable and bad in law, for the reasons set out in this application. In the said interim application, the Petitioner also sought reliefs for expeditious disposal of the income tax appeal filed for the assessment proceedings against the Petitioner for Assessment Year 2017-18, on the grounds more particularly stated therein.

8. With respect to the assessment proceedings for Assessment Year 2018-19 initiated against the Petitioner, on 17.04.2023, the Income Tax Department dropped the assessment proceedings, after considering and being satisfied with the response submitted by the Petitioner. Further, with respect to the assessment proceedings for Assessment Year 2017-18, by order dated 09.06.2023, this Court requested the Commissioner of Income Tax (Appeals) ("CIT-A") to hear the said Appeal filed by the Petitioner as expeditiously as possible and in any event on or before 31.10.2023.

9. Pursuant to order of this Court dated 09.06.2023, the learned CIT-A, by an order dated 30.10.2023, was pleased to allow the Appeal filed on behalf of the Petitioner with respect to the assessment proceedings for Assessment Year 2017-18 and directed the Assessing Officer to delete the penalty of ₹ 1,71,58,750.

10. On 08.03.2024, the Dy. Commissioner of Income-tax 5(2)(1) Mumbai ("Income Tax Department" or "Income Tax Authority"), through its advocate, filed an affidavit-in-reply and stated that an appeal is filed against the CIT-A order of 30.10.2023 on 19.12.2023 being ITA No. 4667/MUM/2023 and CO No. 16/MUM/2024, ("IT Appeal") before the Income Tax Appellate Tribunal ("ITAT").

11. On 26.04.2024, the Petitioner Company submitted that they have paid outstanding demand of ₹ 23,56,210/- for the Assessment under Section 143(3) for assessment year 2017-18 and an affidavit to this effect was filed on 09.05.2024, which was taken on record.

12. The learned senior counsel appearing on behalf of the Petitioner Company submits that by order dated 17.05.2024, the ITAT has dismissed the Appeal filed by the Income Tax Authority. The learned senior counsel for the Petitioner Company further submits that in terms of Circular No. 09/2024 dated 17.09.2024, the monetary limit for filing appeals before the High Court has been enhanced to ₹ 2 crores. Since the penalty amount of ₹ 1,71,58,750 is below this threshold, there is no further appeal possible by the Income Tax Department. Accordingly, the pending proceedings relating to the assessment proceedings for Assessment Year 2017-18, have come to an end.

13. The learned senior counsel for the Petitioner Company submitted that the Petitioner Company has received 2 notices from the UP GST authorities under Section 73 of the Central Goods and Services Tax Act, 2017 ("CGST Act, 2017") raising demands for the period from 2018-19 and 2019-20.

14. The learned senior counsel for the Petitioner Company submitted that as per the newly introduced Section 128A of the CGST Act, 2017, the demand of interest and penalty is waived for the period from 01.07.2017 to 31.03.2020, pursuant to any notice / order passed under Section 73 of the CGST Act, 2017, subject to the taxpayer paying the full tax demand and all the proceedings shall be deemed to be concluded on filing of the notified forms.

15. As stated in Affidavit dated 03.01.2025, the Petitioner Company has discharged the full tax amounts against the orders issued under Section 73 of the CGST Act, 2017 for the FY 2018-19 and FY 2019-20 and thus, the demand towards interest and penalty in both the cases are waived. The Petitioner Company has filed the necessary forms for waiver of the interest and penalty to close the proceedings against the orders. There are no further steps for the Petitioner Company to take with respect to the said demands.

16. Considering the above facts and circumstances, the Liquidator is directed to take all necessary steps and actions required for completion of dissolution of the Petitioner Company, including but not limited to extinguishing the shares held by shareholders, the distribution of the balance amounts to the concerned stakeholders, service providers and any other such compliances as the Liquidator deems fit and proper for dissolution of the Petitioner Company within a period of 5 weeks from this order.

17. The Liquidator is also directed to file its final report and the audited accounts of the Petitioner Company within 5 weeks from the date of this order. The Liquidator may also file necessary forms with the ROC, who is hereby directed to take the same on record.

18. List for further consideration on 17.03.2025.

(MANISH PITALE, J)

Priya Kambli