IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO. 2797 OF 2025
IN
COMPANY PETITION NO. 468 OF 2013

Kumar Motors Pvt. Ltd.
Through Its Managing Director Shri Rajiv Nair ...Applicant
Versus
Official Liquidator Of Kumar Motors Pvt. Ltd.
Bombay High Court & Anr ...Respondents

WITH
OFFICIAL LIQUIDATOR REPORT NO. 74 OF 2024
IN
COMPANY PETITION NO. 468 OF 2013
WITH
INTERIM APPLICATION NO. 2917 OF 2025
IN
COMPANY PETITION NO. 468 OF 2013

Mr. Aditya Pimple a/w Mr. Aakash Joshi and Mr. Amarjit Prasad for Applicant in IA/2797/25.
Mr. Kshitij Parekh a/w Mr. Vinod Kothari i/b Apex Law Partners in IA/2917/25 for Applicant.
Mr. Rushabh Sheth for Official Liquidator.
Mr. Stayajit Roul, Official Liquidator present.
Mr. J. P. Gautam, Deputy Official Liquidator present.

CORAM : ARIF S. DOCTOR, J.
DATE : 20th NOVEMBER, 2025.

P.C.:

1 The issue in this matter is really two fold; i) is pertaining to the

security charges that have to be paid an amount of approximately Rs.45 lakhs and ii) the claim that a secured creditor has qua the property in liquidation. However, in so far as the claim of payment of security charges, it is pointed out to the Court that the original Petitioner in the company petition Metamorphosis Trading LLP had given undertakings to this Court to bear the security charges. He has invited my attention to an order dated 10th March 2023, which read thus:

> "1. This Official Liquidator's Report is filed seeking the following reliefs:-
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> a) In view of para 17 above this Hon'ble Court may be pleased to ratify the action of the Official Liquidator in deploying security guards per shift i.e. six security guards for three shifts in a day round o'clock of Devendra Worldwide (OPC) Pvt. Ltd. To safe guard the premises of the Company (In Liqn.) situated at Gat No. 316, At Kasar-Amboli, Post Ambedwet, Pune-412 111.
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> b) In view of para 24 above this Hon'ble Court may be pleased to permit the Official Liquidator to forfeit an amount of Rs.14,14,370/- deposited by Applicant, Metamorphosis Trading LLP and credit in the Account of Company (In Liqn.);
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> c) In view of para 25 above this Hon'ble Court may be pleased to direct Ex-directors of the Company (In Liqn.) to handover the possession of movable and immovable assets of the Company (In Liqn.) situated at Gat No. 316, at Kasar-Amboli, Post Ambedwet, Pune-412 111 alongwith records and books of accounts of the Company (In Liqn.) to the Official Liquidator, High Court, Bombay and in case of noncooperation this Hon'ble Court may be please to permit the Official Liquidator to break open the lock and seal and take possession of the premises of the Company (In Liqn.);
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> d) In view of para 26 above this Hon'ble Court may be pleased to permit the Official Liquidator to get the valuation of the movable and immovable assets of the Company (In Liqn.) situated at Gat No. 316, at

> KasarAmboli, Post Ambedwet, Pune-412 111 and any other assets as disclosed by the Ex-directors of the Company (In Liqn.) by appointing a valuer from the panel of the Official Liquidator as per roster and may be pleased to direct the secured creditors to deposit the valuation charges on being demanded by the Official Liquidator and to direct the Official Liquidator to pay the same to valuer on receipt from them as per revised fee structure of Central Board of Direct Taxes.
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> e) In view of para 27 above, this Hon'ble Court may be pleased to direct the secured creditors to deposit the security charges of Rs.32,34,522/- for the month from 17.09.2021 to 30.11.2022 and thereafter deposit the security charges on being demanded by the Official Liquidator.
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> f) In view of above para 28 of this report, whether this Hon'ble Court may be pleased to direct Ex-directors of the Company (In Liqn.) to file Statement of Affairs with the Official Liquidator within stipulated time on failure of which Official Liquidator may be permitted to file Criminal Complaint Under Section 454(5) of the Companies Act, 1956 read with Rule 132 of the Companies (Court) Rules, 1959 against the Ex-Directors of the Company (In Liqn.) without referring matter to the Court.
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> g) For such other and further direction as this Hon'ble Court may be deem fit and proper."

2. The background in which the above Official Liquidator's Report is preferred, is that one Metamorphosis Trading LLP, who claims to be a transferee of the Petitioner above named, had filed Interim Application (L) No. 22094 of 2021 for seeking transfer of the above Company Petition to the National Company Law Tribunal, Mumbai Bench, by invoking the provisions of Section 434(1)(c) of the Companies Act, 2013 read with the Companies Transfer of (pending proceeding) Rules, 2016.

3. The aforesaid Interim Application came to be allowed by this Court vide its order dated 27th July 2022, subject to certain conditions. The conditions imposed by this Court were as under:-

> "1] Subject to the applicant depositing an amount of Rs.14,14,379/- with the Official Liquidator, towards the expenses incurred by the Liquidator with reference to

the company (In Liquidation) till 31st March, 2022 and furnishing an undertaking to pay the expenses for the period from 1st April, 2022 till date, within two weeks from the date of uploading of this order, the Company Petition No. 468 of 2013 shall stand transferred to NCLT, Mumbai. 2] Subject to compliance of the aforesaid deposit and undertaking, the order of admission dated 4th August, 2015 and the order of winding up dated 8th February, 2019, which came into effect on 20th February, 2019, stand recalled and the order of winding up revoked. 3] Once the petition is transferred to NCLT, the same shall be treated as an application for Initiation of Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code,2016. In view of the fact that the Company Petition is now transferred to NCLT, all pending applications and Official Liquidator's Report in relation to company in liquidation stand disposed of. 5] All contentions of parties including the shareholders of company (In Liquidation) Kumar Motors Private Limited are kept open to be agitated before the NCLT. 6] Until such time, the NCLT initiates the corporate insolvency resolution process or any order is passed by the NCLT, the company and/or its Directors, including the applicant herein shall not sell, alienate, deal with, part with possession and/or create any third party rights and/or interest in respect of movable (except in the ordinary course of business), immovable and fixed assets of the company and/or money lying in the bank account of the company. If any amount is received by the company or its Directors pursuant to its on going/completed work, the same shall be deposited by the Directors in a separate account specifically opened for this purpose and the amounts deposited therein shall not be used without the permission of NCLT. A statement of the amount recovered/ received by the company/its Directors and deposited in the separate bank account shall be placed before NCLT on the date when the matter is called out before NCLT."

4. Since the Metamorphosis Trading LLP did not deposit the amount mentioned in condition No. 1 within the stipulated period, they filed

a praecipe seeking extension of time to make payment. At that time, this Court directed the Official Liquidator (vide its order dated 16th November 2022) to submit the expenses incurred by the Liquidator till 30th November 2022. Accordingly, the Liquidator vide its letter dated 21st November 2022, informed the Court and the parties that the expenses incurred are to the tune of Rs.32,34,522/- and also brought to the attention of the Court that he has received a Demand Draft of Rs.14,14,379/- only on 23 rd November 2022. Thereafter, the above Official Liquidator's Report came up before this Court on 8th March 2023. On the said date, the learned Counsel appearing for Metamorphosis Trading LLP, made a statement that they shall deposit all expenses upto 28/02/2023 with the Liquidator. In these circumstances, the matter has come up before me today.

5. I am informed that expenses of the Liquidator upto 28th February 2023 are Rs.39,42,685/-. The learned Counsel appearing on behalf of Metamorphosis Trading LLP has handed over a Demand Draft of Rs.39,42,685/- to the Official Liquidator in Court today and which is duly acknowledged. Considering these circumstances and the fact that now the entire expenses of the Liquidator have been paid by the Metamorphosis Trading LLP, the above Company Petition shall stand transferred to the NCLT, subject to the same conditions that were imposed by this Court in its order dated 27th July 2022 and reproduced hereinabove.

6. The learned Counsel appearing on behalf of the Metamorphosis Trading LLP submitted that they may be allowed to claim the expenses paid to the Liquidator by filing an Application before the IRP who will be appointed in relation to the Company (in Liqn.) namely Kumat Motors Pvt Ltd.(In Liquidation). Considering this request, Metamorphosis Trading LLP is at liberty to file an Application before the IRP to claim the expenses paid by it to the Official Liquidator. If such an application is made, the same shall be decided on its own merits and in accordance with law. This liberty granted should not be construed mean that Metamorphosis Trading LLP is entitled to these expenses.

7. I am also informed that Metamorphosis Trading LLP has filed a Petition against the Company in Liquidation namely Kumar Motors Pvt Ltd. under Section 7 of the Insolvency and Bankruptcy Code, 2016. That Petition has been heard and reserved for Orders. Since the transfer of this Petition will have a bearing on the outcome of the Petition already filed by Metamorphosis Trading LLP, before any final order is passed in that Petition, Metamorphosis Trading LLP shall

place this order before NCLT. After taking into consideration this Order, NCLT is free to pass whatever order it so chooses.

8. The Official Liquidator is directed to make payment to security Agency Devendra Worldwide (OPC) Pvt Ltd from the funds deposited by Metamorphosis Trading LLP. If there are any further dues of the security agency, Metamorphosis Trading LLP has given an undertaking to this Court to clear all those dues within a period of one week of the Liquidator. calling upon them to pay the same.

9. Once the Official Liquidator hands over the charge of the assets to the IRP, appointed by the NCLT, the Official Liquidator shall stand discharged.

10. The above Official Liquidator's Report is disposed of in the aforesaid terms. No order as to costs.

11. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order."

2 In light of this, Mr. Pimple fairly submits that he will amend the interim application to incorporate the Directors of Metamorphosis Trading LLP as also seek a prayer against Metamorphosis Trading LLP to abide by the undertaking given to this Court. Hence, seeks one week time to carry out necessary amendment. Applicant is granted leave to amend the interim application to the limited extent as indicated above. Amendment to be carried out within one week from today. Amended copy to be served on Defendants including newly Directors of the Defendant. Re-verification is dispensed with.

3 The Court will take up both the interim applications for consideration on the next date.

4 Stand over to 4th December 2025.

[ARIF S. DOCTOR, J.]

Meera Jadhav