CO.8 & 9

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

% ***Date of Decision: 16.05.2025***

\+ **CO.PET. 816/2014**

M/S FULLERTION INDIA CREDIT CO. LTD. .....Petitioner

Through: None.

versus

M/S CREDIT MICROFINANCE LIMITED .....Respondent

Through: Mr. Sumit K. Batra, Standing Counsel for OL

\+ **CRL.O.(CO.) 1/2018 & CO APPL. 202/2025**

CREDIT MICROFINANCE LIMITED .....Petitioner

Through: None

versus

DEBABRATA MALICK & ORS. .....Respondents

Through: Mr. Sumit K. Batra, SC for OL.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CO. APPL. NO. 202/2025*[For directions]* in CRL.O.(CO.) 1/2018

1. This is an Application filed on behalf of the Official Liquidator seeking disposal of CRL.O.(CO.) 1/2018.

2. An Application bearing CO. APPL. 200/2025 seeking withdrawal of CO. APPL. 57/2018 has already been disposed off by order dated

18.03.2025 in CO.PET. 816/2014.

3. In view of the submissions made by the learned Counsel for the Official Liquidator, CRL.O.(CO.) 1/2018 is dismissed as withdrawn.

CO. APPL. 201/2025 in CP No. 816/2014*[For dissolution]*

4. This Application has been filed by the Official Liquidator [hereinafter referred to as "OL"] under Section 481 of the Companies Act, 1956 [hereinafter referred to as "Act"], seeking dissolution of the Company, M/s Credible Microfinance Limited [hereinafter referred to as "Company]. It is apposite to set out the prayers in the Application which read as follows:

> *"i. The Official Liquidator may be appointed as the Liquidator of the Company (in Prov. Liqn.).*
>
> *ii. The Official Liquidator may be exempted from publication of citation of Winding up.*
>
> *iii. The Official Liquidator may be permitted to close the books of accounts of the Company (in Prov. Liqn.) maintained by the office of the Official Liquidator;*
>
> *iv. The Official Liquidator may be permitted to transfer the balance amount, if any, lying in the account of Company (in Prov. Liqn.) to the Common Pool Fund after deduction of Liquidation Expenses.*
>
> *v. The Official Liquidator may be permitted to handover the property situated at BISWA Complex, Dhanipali, PO Budhiraja, District Sambalpur, Odisha to Mr. K.C. Malick.*
>
> *vi. The Company **M/s CREDIBLE MICROFINANCE LIMITED** may be dissolved under Section 481 of the Companies Act, 1956 and the Official Liquidator may be discharged as the Liquidator of the Company;*
>
> *vii. Pass such other order (s) as may be deemed fit and proper in the facts and circumstances of the case as this Hon'ble Court may deem fit and proper."*

5. A Petition under Sections 433, 434 and 439 of the Act was filed by the Petitioner against the Respondent seeking winding up of the Respondent

Company for non-payment of dues of the Petitioner amounting to Rs.25,02,67,123/- (Rupees Twenty-Five Crore Two Lacs Sixty-Seven Thousand One Hundred Twenty-Three) being the aggregate of Principal Amount, Arrears (including accrued late charges) and interest till 01/07/2014.

6. The citation for provisional winding up of the Company was published in “Veer Arjun (Hindi)” and “Statesman (English)” newspaper on 05.11.2019 passed in the present Petition, the OL attached to the Court was appointed as the Provisional Liquidator with the directions to take possession of all assets, records and books of accounts of the Company and the Company was directed to be wound up by an order dated 17.03.2017 passed by the Court.

7. By an order dated 18.04.2018 passed in OLR No.107/2018, this Court corrected the name of the Company to M/s Credible Microfinance Limited.

8. As per the records maintained by Registrar of Companies the details of the Ex-directors of the Company including the details with respect to their filing of the Statement of Affairs and recording of their statement under Rule 130 of the Companies (Court) Rules, 1959 are reproduced herein below:

S. No.	**Name**	**Statement**	**Statement of Affairs**
1.	Shri Debabrata Malick	Not recorded	Not filed
2.	Shri Khirod Chandra Malick	Recorded on 09.04.2019 and 19.07.2019	Not filed
3.	Mr. Sureswari Prasad Das	Recorded on 30.11.2017	Not filed

9. It is submitted by the Counsel for the OL that in terms of the winding up Order dated 17.03.2017 passed by the Court, office of the OL issued letters to the Ex-Directors of the Company to deliver, convey, surrender, transfer all monies, properties, books of accounts and other papers, documents etc. in their possession to the office of the OL. In response to the letter, one Ex-Director Mr. Sureswari Prasad Das communicated vide letter dated 16.09.2017 stating that he had tendered his resignation on 04.09.2012. He further stated that day to day affairs of the Company were dealt with by Mr. Khirod Chandra Malick.

10. The Company had a registered office situated at A-1, Ground Floor, 324 Masjid Moth, South Extension-2, New Delhi –110049. The officials of the OL visited the property for sealing the premises. However, the property could not be sealed as a tenant, Mr Arjun Singh has been residing in the property since March 2017. Further, the OL was informed that the Ex-Director, Mr. K.C. Malick had sold the property to Mr. Shankar LaI Agarwal and Mr. Dinesh Singhania by a Sale Deed dated 04.01.2013.

11. It is submitted by the Counsel for the OL that they had issued communication letter dated 23.06.2017 & 06.11.2017 & 17.11.2017 to the Union Bank of India & Maanveeya Development & Finance Private Limited respectively requesting them to furnish original title Deeds of movable/immovable property of the Company, upon which a charge was created. The Union Bank of India replied stating the charge created in favour of the Bank has already been closed in the year 2012. The Union Bank of India further deposited a Demand Draft of Rs. 36,830.61/- with the OL being the amount lying in current account of the Company.

11.1 The Maanaveeya Development & Finance Private Limited [hereinafter referred to as "MDFPL"] replied vide letter dated 13.12.2017 stating they had sanctioned and disbursed a loan amount of Rs.5,00,00,000/- (Rupees Five Crores) to the Company and the Company had also hypothecated their Book Debts for 105% of the loan Amount and created a charge with the Registrar of Companies. MDFPL additionally clarified that it does not hold any property of the Company and, as on 22.06.2010, an outstanding loan of the Company was in the amount of Rs.4,00,00,000/- (Rupees Four Crores). It further stated that a Cheque issued by the Company had been dishonoured and proceedings were initiated by MDFPL against the Company under Section 138 of Negotiable Instruments Act, 1881 in Hyderabad.

12. The Company has a property situated at BISWA Complex, Dhanipali, PO Budhiraja, District Sambalpur, Odisha – 768004 which is the Corporate Office of the Company and the residence of the Ex-Director, Mr. K.C. Malick. The officials of the OL visited the premises to take over the possession and found that due to heavy flood, records of the Company were badly damaged and the inventory of the same could not be prepared. However, an inventory of the remaining assets of the Company lying in the corporate office was made and thereafter the premises were locked and sealed in the presence of Ex-Director, Mr. K.C. Malick.

13. As the Statement of Affairs under Section 454 of the Act as is required by the Ex-Directors of the Company was neither filed nor recorded, the OL filed a criminal complaint, being CRL.O.(CO.) 1/2018, and an Application, being CO. APPL. 57/2018, under Sections 468 and 477 of the

Act against the Ex-Directors of the Company.

14. Subsequent to the direction, by order dated 19.03.2019 passed by the Court, one of the Ex-Directors, Mr. K.C. Malik appeared before the OL on 19.07.2019 and contended that the details of loans and advances and current assets of the Company are available in part of the documents, records and equipment including the hard disk(s) seized by EOW, Bhubaneswar.

15. Accordingly, details were sought of the case pending from the EOW, Bhubaneswar. In response thereto, the EOW, Bhubaneswar by letter dated 30.10.2019 had informed the OL that all the documents seized during the investigation of the Company were not in possession of the EOW, Bhubaneswar as the same have been deposited in the Court of Presiding Officer, Designated Court (Under OPID Act, 2011), Berhampur, Odisha without retaining the authenticated copies thereof.

15.1 Pursuant to the same, despite multiple communications with EOW, Bhubaneswar, no information or documents with respect to the Company could be recovered by the OL. As a result, thereof, no asset belonging to the Company could be traced even after a lapse of considerable time.

16. The office of the OL has filed an additional Affidavit dated 08.05.2025. It is apposite to extract the relevant paras of the Affidavit which is below:

> *"11. That in his statement, Mr. KC Malick stated that "most of the records are taken away by EOW, Crime Branch, Mumbai and a portion of these records was destroyed in floods in August 2014".*
>
> *12. That the Ex-Director submitted copy of the Aadhar Card and Pan Card, he also submitted a copy of the land record in respect of Corporate Office of the Company situated at BISWA Complex, Dhanipali, P.O. Budhiraja, District Sambalpur, Odisha, which is since then in possession of the Official Liquidator. It was stated by him that the same was a rented*

premises. However, as the land record was in Oriya, translation efforts were made to verify and check the veracity of the statement of the Ex-Director. Upon translation, from Oriya to English, as per documents, it is found that the premises is in the name of Mr. Khirod Chandra Malick, Ex-Director and hence, the same is not the property of the Company (in Liqn.). Copy of land record in Oriya and translated copy is annexed as Annexure-B.

13. That the deponent submits that there is no other immovable property which is owned by the Company (in Liqn.).”

17. Learned Counsel for the OL has also placed on record a copy of the land records as were received by him with respect to the subject property situated at BISWA Complex, Dhanipali, PO Budhiraja, District Sambalpur, Odisha – 768004.

18. By the Affidavit of 08.05.2025, the OL has deposed that the copy of the land records reveals that the premises is in the individual name of the Ex-Director, Mr. K.C. Malick and does not belong to the Company.

19. It is stated that the OL has no further asset either moveable or immoveable property from which any money may be realized for the Company and therefore, no useful purpose would be served by keeping this matter pending. Thus, the OL has filed an application under Section 481 of the Companies Act, 1956 for dissolution of the Company and sought permission to close the books of accounts of the Company as maintained by the office of the OL.

20. As affirmed by the OL, at present a sum of Rs.61,830/- is available with the office of the OL as on 14.02.2025.

20.1 The OL has contended that he has incurred the following expenses:

(i)	Income Tax liability	-Rs. NIL
(ii)	Audit Fee	-Rs. 4,480/-

(iii)	Govt. Commission	-Rs NIL
(iv)	Professional Fee	-Rs. 8,850/-
(v)	Administrative Expenses	-Rs. 61,830/-
	Total	-Rs. 75,160/-

21. The Supreme Court in the case of ***Rishabh Agro Industries Limited v. P.N.B. Capital Services Limited***[1], has held that winding up proceedings only starts the process of closing the affairs of the Company and ultimately order of dissolution of the Company has to be passed. The relevant extract of the ***Rishabh Agro*** case is reproduced below:

> *"11. It may also be noticed that winding-up order passed under the Companies Act is not the culmination of the proceedings pending before the Company Judge but is in effect the commencement of the process.* ***The ultimate order to be passed in such a petition is the dissolution of the Company in terms of Section 481 of the Companies Act.*** *The words "shall be deemed to commence" in Section 441 of the Companies Act clearly show the intention of the legislature that although the winding up of a petition does not in fact commence at the time of presentation of the petition itself but it shall be presumed to commence from that stage. The word "deemed" used in the section would thus mean, "supposed", "considered", "construed", "thought", "taken to be" or "presumed"."*
>
> [Emphasis supplied]

21.1 In the case of ***Meghal Homes (P) Limited*** **v.** ***Shree Niwas Girni K.K. Samiti***[2], the Supreme Court has held that an order for dissolution of the Company can be made either when the Company has wound up or due to insufficiency of funds the OL cannot proceed with winding up or for any other just reason. The relevant extract of ***Meghal Homes*** case is as follows:

> *"When the affairs of the company had been completely wound up or the Court finds that the Official Liquidator cannot proceed with the winding up of the company for want of funds or for any other reason, the court can*

[1] (2000) 5 SCC 515
[2] (2007) 7 SCC 753

make an order dissolving the company from the date of that order. This puts an end to the winding up process".

22. In view of the above and given the settled position of law, this Court is of the opinion that it is just to expedient that the liquidation proceedings be brought to an end. Accordingly, the following directions are passed:

(i) The Official Liquidator is exempt from publication of the citation of wounding up.

(ii) The Official Liquidator is permitted to close the books of accounts of the Company.

(iii) The Official Liquidator is permitted to transfer Rs.61,830/- as liquidation expenses to the Common Pool of the Official Liquidator.

23. Accordingly, the Company, M/s Credible Microfinance Limited is dissolved. A copy of this order be communicated to the Registrar of Company by the office of the Official Liquidator.

24. The Official Liquidator is also discharged.

25. The Application is disposed of in the aforegoing terms. Consequently, the Petition is also disposed of. All pending Applications stand closed.

26. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 16, 2025/ *ha*