

\$~9 (company)

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

Date of Decision: 16.11.2022

+ **CO.PET. 13/1984**

RE-M/S NAGRATH PAINTS P. LTD.

.....Petitioner

Through: None

versus

....

.....Respondent

Through: Ms.Ruchi Sindhwani, Sr.
Standing Counsel with Ms.
Megha Bharara, Adv. for
Official Liquidator

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

CO. APPL. NO. 667/2022

1. This application has been filed by the Official Liquidator (in short, 'OL') under Section 481 of the Companies Act, 1956 (in short, 'the Act'), praying that M/s.Nagrath Paints Pvt. Ltd. [hereinafter referred to as 'the Company (In Liqn.)'] be dissolved and the OL be discharged as the Liquidator.

2. It is stated that the OL was appointed as the Provisional Liquidator of the Company (In Liqn.) vide order of this Court dated 19.02.2001; and the Company (In Liqn.) was ordered to be wound up vide order of this Court dated 12.01.2005. Vide the same order, the

OL attached to this Court was appointed as the Liquidator of the Company (In Liqn.).

3. It is stated in the said application that the possession of the Registered Office of the Company (In Liqn.) at 2, Tolstoy Marg, New Delhi, could not be taken as the landlord informed that the Company (In Liqn.) had shifted from the said premises in the year 1978-1979.

4. The factory of the Company (In Liqn.) at 46, Fazal Gunj, Kanpur, Uttar Pradesh was taken over on 18.06.2001. The land and building and plant and machinery of the factory of the Company (In Liqn.) at 46, Fazal Gunj, Kanpur, UP, was auctioned pursuant to the order of this Court dated 09.02.2012 for Rs.8,75,00,000/- (Rupees Eight Crore Seventy Five Lakh Only), to M/s. Bajaj Fabcon Pvt. Ltd..

5. The following persons were the ex-directors of the Company (In Liqn.) and the details with respect to the filing of the Statement of Affairs and recording of their statement under Rule 130 of the Companies (Court) Rules, 1959 is reproduced herein below:

S. NO.	NAME	STATEMENT U/R 130	STATEMENT OF AFFAIRS	STATUS
1.	Mr.Jagdeep Singh Bindra	Not appeared	Not filed	Declared Proclaimed Offender
2.	Mr.Bikramjit Singh	Not appeared	Not filed	Declared Proclaimed Offender
3.	Mr.Gurcharan Singh Bindra	Not appeared	Not filed	Declared Proclaimed Offender
4.	Mr.Gurdeep Singh Bindra	Not appeared	Not filed	Declared Proclaimed

				Offender
5.	Mr.B.Nagrath	Recorded on 27.05.2003	Not filed	Deleted
6.	Mr.Ranjit Nagrath	Recorded on 27.05.2003	Not filed	Expired
7.	Mr.Jasbir Singh Bindra	Not recorded	Not filed	Declared Proclaimed Offender
8.	Mr.Vimal Nagrath	Recorded on 27.05.2003	Not filed	---

6. As the Statement of Affairs under Section 454 of the Act by the ex-directors of the Company (In Liqn.) [with some not even recording their statement under Rule 130 of the Companies (Court) Rules, 1959] was not filed, the OL filed a criminal complaint, being CRL.O.No. 11/2004, and an application, being CA No.485/2014, under Sections 468 and 477 of the Act against the ex-directors of the Company (In Liqn.). Subsequently, and as recorded hereinabove, five ex-directors of the Company (In Liqn.) were declared to be '*proclaimed offenders*'; one was deleted from the array of parties and one ex-director, namely, Mr. Ranjit Nagrath left for his heavenly abode during the pendency of the present petition. The said criminal complaint was disposed of vide order of this Court dated 18.12.2012.

7. That the claims from the creditors of the Company (In Liqn.) were invited, pursuant to the order of this Court dated 17.05.2012, by publishing the notice in the newspapers, namely, '*Statesman*' (English) Delhi Edition and '*Dainik Jagran*' (Hindi) Kanpur Edition. Pursuant thereto, one claim from the Employees' Provident Fund

Organisation (in short, 'EPFO'), one claim from a secured creditor, one hundred-fifteen claims from the workmen, and two claims from unsecured creditors were received.

8. That the claims of the creditors were scrutinised and thereafter, disbursed by the OL, as explained in form of a table as under:-

Category	Name of claimant	Amount claimed	Amount admitted	Amount disbursed
EPFO	Employee Provident Fund, Kanpur	Rs.78,15,408.05/-	Rs.10,78,490/- +Rs.33,37,341.15	Rs.10,78,490/- disbursed in compliance of order dated 15.03.2017. Rs.33,37,341.15. disbursed on 18.10.2019 in compliance of order dated 29.07.2019.
Secured Creditors	Bank of India	Rs.11,79,02,310, 24	Rs.4,99,18,000/- (as secured)	Rs.4,99,18,000/- was disbursed on 29.10.2014 in terms of order dated 14.10.2014.
			Rs.6,79,84,310.24 (as unsecured)	*Rs.1,86,25,449/- disbursed vide order dated 22.01.2020 on pro-rata basis. Rs.28,84,572/- disbursed vide order dated 31.05.2022 on pro-rata basis.

Workmen	List of 115 workmen was provided.	Rs.69,87,079/-	Committee viz. Gupta Dua & Co had been appointed vide order dated 03.02.2015 for scrutinizing claims. * Claims of 61 workmen examined. * 59 claims were admitted for Rs.30,74,021/- and 2 claims out of 61 claims were rejected by the Committee. * 54 workmen did not provide documents and therefore their claims have been rejected vide letters dated 19.03.2020 & 01.02.2021.	Rs.29,20,981/- disbursed to 56 workmen. *Claim of 3 workers amounting to Rs.1,53,040/- deposited with the RBI u/s 555 as unclaimed dividend as bank details were not provided.
Un-secured	Central Excise Division-III, Kanpur	Rs.2,13,07,816/-	Rs.2,13,07,816/-	Rs.58,37,793/- disbursed vide order dated 03.01.2022 on pro-rata basis. Rs.8,97,422/- disbursed on pro-rata basis vide order dated 31.05.2022.
Un-secured	Trade Tax	Rs.6,32,16,775/-	Rs.6,22,12,827/-	Rs.1,70,44,712/- disbursed on pro-rata basis vide

				order dated 22.01.2020 on pro-rata basis. Rs.26,28,166/- disbursed vide order dated 31.05.2022.
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9. It has been stated in the said application that since the funds available in the account of the Company (In Liqn.) were insufficient, therefore, the unsecured creditors had been paid on *pro-rata* basis and after the deduction of the liquidation expenses of Rs.12,98,918.58(Rupees Twelve Lakhs Ninety Eight Thousand Nine Hundred Eighteen and Fifty Eight paise), the fund position of the Company (In Liqn.) as on date is NIL.

10. It is stated that the OL has no further assets, either moveable or immovable, from which any money may be realized for the Company (In Liqn.) and, therefore, no useful purpose would be served by keeping this matter pending.

11. In the case of ***Meghal Homes (P) Ltd v. Shree Niwas Girni K.K. Samiti***, (2007) 7 SCC 753, the Supreme Court, has held as under:-

“31. Now to recapitulate, the Company was ordered to be wound up on 25-7-1984 and the Official Liquidator was directed to take possession of the assets of the Company. Once an order of liquidation had been passed on an application under Section 433 of the Companies Act, the winding up has to be either stayed altogether or for a limited time, on such terms and conditions as the court thinks fit in terms of Section 466 of the Act. If

no such stay is granted, the proceedings have to go on and the court has to finally pass an order under Section 481 of the Act dissolving the Company. In other words, 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 make an order dissolving the Company from the date of that order. This puts an end to the winding-up process."

(Emphasis Supplied)

12. In view of the above decision of the Supreme Court and the facts and circumstances of the present case, as noticed hereinabove, the liquidation proceedings deserve to be brought to an end. Consequently, the Company (In Liqn.) is dissolved. The OL is permitted to close the Books of Account of the Company (In Liqn.).

13. A copy of this order be communicated to the Registrar of Companies within thirty days by the OL. The OL is discharged and the application stands disposed of.

NAVIN CHAWLA, J

NOVEMBER 16, 2022

AB/s