

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**ITEM No. 1
CP-73/PB/2022**

IN THE MATTER OF:

Sidhant Sharma and Ors. Petitioners
Vs.
M/s Glow Infocom Private Limited & Ors. Respondents

Order under Section 271(g) of the Companies Act 2013

Order delivered on 09.05.2024

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT**

**SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)**

HYBRID HEARING (PHYSICAL & VC)

Present:

For the Petitioners : Mr. Aditya Jagia, Mr. Chandan Dutta, Advs.

For the Respondents :

ORDER

1. This petition has been filed on 15.04.2022 by the Petitioners under section 271 -272 of the Companies Act 2013 seeking winding up order for Glow Infocom Private Limited / Respondent No. 1.
2. The Petition has been heard from time to time and vide order dated 01.09.2022 this Tribunal had issued directions to the Petitioners to issue Notice of Petition to Respondents / Non-Applicants. Pursuant to the directions, affidavit of service has been filed on 22.09.2022 stating that all the Respondents have been served with the copy of Petition.

3. Registrar of Companies has filed their Report on 04.07.2023, wherein it's been stated that name of Respondent No. 1 Company / Glow Infocom Private Limited has been struck off vide notice (STK-07) dated 06.06.2022 for non-filing of financial statements.
4. In view of the name of the Respondent No. 1 Company being struck off there has been no representation on behalf of the Company. So far as Respondent No. 2 / Akash Khilwani is concerned, we have given multiple opportunities vide order dated 21.10.2022, 22.11.2022 and 23.03.2023 to file reply while Respondent No. 2 / counsel has appeared on all these dates when opportunity to file reply has been given. However, Respondent No. 2 has failed to file Reply.
5. We also see that as per case of the Petitioners themselves, the Respondent No. 1 Company is riddled with multiple litigations in different court of law. However, neither we have a reliable record of list of pending litigations in which Respondent no. 1 Company is involved nor we have a list of creditors of the Respondent no. 1 Company.
6. Further we also see that it is case of the Petitioners that Government of NCT of Delhi w.e.f. 01.10.2021 brought and implemented new excise policy in Delhi under which excise licenses were auctioned on zone basis and it's been claimed that since the Respondent No. 1 Company was riddled with litigation and was facing stringencies of funds it could not participate in the auction process which resulted in final closure of the business. However, Petitioners have failed to bring anything on record to indicate that currently it is not holding any license / permission from the Government of Delhi to run liquor business.
7. Further we are also cautioned with the fact of proceedings under section 241-242 of the Companies Act 2013 being Company Petition No. 305/241-242/(PB)/2018 have been disposed of by this tribunal

vide order dated 24.08.2023 for the reason of default in appearance by Akash Khilwani / Respondent No. 2 who is the Petitioner in the said proceedings under section 241-242 of the Companies Act 2013.

8. ROC in its report has taken following objections to the winding up order, which are extracted hereinbelow:

In view of the foregoing facts and circumstances mentioned above, it is most respectfully submit that during pendency of proceedings u/s 241 of the Companies Act, 2013 before this Hon'ble Tribunal (in CP no. 305/241/241/PB/2018 titled as Akash Khilwani vs. Glow Infocom Private Ltd. filed by Mr. Akash Khilwani, i.e. respondent no.2 in the present petition w.r.t family dispute in the control and management of the Company) it seems that it is not suitable to allow the present winding up petition against the strike off company till the conclusion of section 241 proceedings.

However, the Hon'ble Tribunal may pass such order/orders as it may deem fit & proper as per merits of the case and if the present petition of winding up is being allowed by this Hon'ble Tribunal consequent upon reply from other respondents in the matter then:

a) NOC may be called from secured creditors/parties as shown in the financial statement for the financial year 2015-16.

b) Further in view of the reason stated by the petitioner for discontinuance of the business, the Exercise Department, NCT of Delhi may also be made a party to the this petition, if deemed fit.

9. Further, Rule 7 of the Companies (Winding Up) Rules 2020, states as follows:

7. Advertisement of petition.-

Subject to any directions of the Tribunal, notice of the petition shall be advertised not less than fourteen days before the date fixed for hearing in any daily newspaper in English and vernacular language widely circulated in the State or Union territory in which the registered office of the company is situated, and the advertisement shall be in Form WIN 6.

On perusal of the Rule, we are of the view that it is mandatory to advertise the notice of Petition before hearing on petition and we are satisfied that same has not been done in the present matter so far.

10. Also on cumulative assessment of facts and being cautioned that we do not have statement of affairs of the Respondent No. 1 Company, list of litigations pending, list of creditors of the Respondent No. 1 Company, and record of cancelled license of liquor business of the Respondent No. 1 Company, we to prevent any possible prejudice to any person and in accordance with Rule 7 as stated above, hereby direct Petitioners to make public advertisement of the notice of Petition being Company Petition No. 73 of 2022 in Business Standard (English) and Business Standard (Hindi) forthwith and not later than 5 days from this order.
11. Any Person having any objections to the Petition may file their Reply within seven days from the date of advertisement of the Notice of Petition.
12. List the matter for hearing on **04.07.2024**.

Sd/-
RAMALINGAM SUDHAKAR
PRESIDENT

Sd/-
AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)