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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 865/2023
M/S NCUBATE INDIA SERVICES PVT LTD Plaintiff
Through Mr. Aditya Dhingra and Mr. Abhishek
Dev, Advocates
versus
GLOBAL BRANDS ENTERPRISE SOLUTIONS PVT LTD &
ANR. Defendant
Through Mr. Surendra Kumar, Advocate for
defendant no. 2 (through VC)
Ms. Isha Khanna, ASC, OL with Mr.
Rajat Malhotra and Ms. Madhu K.
Advocate (through VC) for defendant
no. 1

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **01.07.2024**

I.A. 31877/2024

1. This is an application filed on behalf of defendant no. 1 under Section 446 of the Indian Companies Act, 1956 ('Act of 1956') seeking stay of the suit proceedings in the present proceedings to the extent it relates to defendant no. 1, Global Brands Enterprise Solutions Pvt. Ltd.
2. Learned counsel for the applicant, defendant no. 1 states that *vide* order dated 24.01.2017, this High Court has appointed the official liquidator as the liquidator of defendant no. 1 to oversee the process of liquidation in accordance with the law. She states that the liquidation process is continuing to the knowledge of the plaintiff.
3. She states that the plaintiff herein has not sought the permission of the Company Court to institute the present suit or continue this present suit against defendant no. 1 and therefore, the present proceedings ought to be



stayed.

4. Issue notice. Learned counsel for the plaintiff and defendant no. 2 accept notice.

5. Learned counsel for the plaintiff states that he does not dispute the facts set out in the application and he reserves his right to approach the Company Court to file an appropriate application for seeking liberty to continue the present suit *qua* defendant no. 1.

6. Learned counsel for the plaintiff and defendant no. 2 state that they have no objection to the relief sought in the present application.

7. In fact, a perusal of the plaint shows that the factum of defendant no. 1 being under liquidation and official liquidator having been appointed has been admitted by the plaintiff. Therefore, in view of Section 446 of the Act of 1956, the relief sought by the applicant-official liquidator deserves to be allowed.

8. Accordingly, in view of the submissions of the parties and the averments in the plaint, the present application is allowed and the suit *qua* defendant no. 1 is stayed; reserving liberty to the plaintiff to avail his remedies in accordance with law.

9. The application stands allowed.

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10. List on 08.08.2024, the date already fixed.

MANMEET PRITAM SINGH ARORA, J

JULY 1, 2024/msh/ms

Click here to check corrigendum, if any