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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.PET. 355/2016 & CO.APPL.1562/2016 (Appointment of PL)**
ASHOK ARORA PROPRIETOR OF
ASHOKA BOOT HOUSE Petitioner

Through: Ms. Pooja Koli and Mr. Kapil Dua,
Advocates

versus

SPARSH APPARELS RETAILS INDIA
PRIVATE LIMITED Respondent

Through: Mr. Mukesh Sukhija, Advocate along
with Mr. Ashok Mehta, Managing
Director
Mr. Rajiv Bahl, Advocate for the Official
Liquidator

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER
% 10.03.2017

The present petition under the provisions of Sections 433 (e) and 434 of the Companies Act, 1956 (hereinafter referred to as 'the Act'), seeks winding up of the respondent-company.

It is the case of the Petitioner that the respondent-company has not discharged the alleged outstanding amount in the sum of Rs.2,95,212/-, due against the former. The respondent-company has been stated to be engaged in the business of retail of clothes. Further, it has been stated that the respondent-company placed purchase orders for the supply of fabric with the petitioner. It has further been stated that the goods were duly delivered and the same was acknowledged by the respondent-company, and in furtherance thereof, four invoices dated 12.04.2013, 14.05.2013, 13.06.2013 and 18.07.2013 were raised against the respondent-company by the petitioner.

It is an admitted position that no reply has been forthcoming on the part



of the respondent-company to the legal notice dated 28.09.2015 and no reply has been filed to the show cause notice issued by way of the order of this Court dated 02.05.2016.

Mr. Ashok Mehta, the Managing Director of the respondent-company, is present in person in Court today, in compliance to the directions of this Court by way of order dated 03.03.2017. Counsel appearing on behalf of Mr. Ashok Mehta, on instructions from the latter, acknowledges the outstanding liability in the sum of Rs.2,95,212/- of the respondent-company, due to the petitioner. Counsel appearing on behalf of Mr. Ashok Mehta, on instructions from the latter, further states that the respondent-company is not in a position to discharge its debt, as against the petitioner, and therefore, does not oppose to the admission of the present winding up petition.

In view of the foregoing, it is considered just, necessary and expedient to appoint the Official Liquidator attached to this court as the Provisional Liquidator of the respondent-company with all the powers to take over all the assets, books of accounts and records of the respondent-company forthwith.

I am informed that the petition is yet to be advertised. The citations be published in the Delhi editions of the newspapers 'Statesman' (English) and 'Veer Arjun' (Hindi), as well as in the Delhi Gazette, at least 14 days prior to the next date of hearing. The cost of publication is to be borne by the petitioner, who shall tentatively deposit a sum of Rs.75,000/- with the Official Liquidator within 2 weeks, subject to any further amounts that may be called for by the liquidator for this purpose, if required. The Official Liquidator shall also endeavour to prepare a complete inventory of all the assets of the respondent-company when the same are taken over; and the premises in which they are kept shall be sealed by him.

In addition, the directors of the respondent-company shall file their statement of affairs within 21 days from today before the Provisional Liquidator. It is made clear that in the event the said statement of affairs is not



so filed within the specified time, the concerned Directors, including the Managing Director of the respondent-company shall remain personally present in Court on the next date of hearing, in order to enable this Court to examine them, if required, on that date.

The respondent-company, as well its directors, are restrained from alienating, encumbering, or otherwise parting with possession of the assets of the respondent-company without the leave of this Court.

A copy of the petition along with annexures be supplied to the Official Liquidator.

The Official Liquidator shall file a compliance report before the next date of hearing.

Renotify on 10.07.2017.

SIDDHARTH MRIDUL, J

MARCH 10, 2017

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