

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Company Application No. 55/2010

O L

-----Petitioner

Versus

Ajit Chand Srimal And Ors

-----Respondent

For Petitioner(s)	:	Mr. Vijay Choudhary for OL
For Respondent(s)	:	Mr. Shashank Agarwal Mr. Amol Vyas

HON'BLE MR. JUSTICE SAMEER JAIN

Order

19/01/2024

Learned counsel for the OL has submitted that the winding up order was passed on 28/11/2003 in S.B. Company Petition No. 01/2003. It is submitted that as services were not effected to Director, Officers and other private respondents, a notice was published in newspapers on 08/02/2020. It is further submitted that there have been seven different Directors at various points of time, and some even seized to be Directors way back in 2000. However, the company has not filed any balance sheets after 31/12/1999. It was also submitted that since passing of the winding up order, the directors did not file statement of affairs with the Official Liquidator. Appropriate proceedings were initiated and Chartered Accountant was assigned the task of investigating the same and to submit a report. After due investigation by the expert CA, instances of misfeasance within the meaning Section 543 of the Companies Act, 1956 were made out in the report. The Directors had taken a plea that possession of records and books of accounts of the company in liquidation had been taken by receiver

appointed by the Hon'ble High Court, Kolkata. It is revealed by the report or receivers, minutes drawn by the officers of the Official Liquidator in presence of the bankers and officials appointed by the Ex-Managing Director of the Company, on the date of handing over/taking over possession, there were no items on the factory premises at Okhla New Delhi. Even the building was in dilapidated condition having no doors or windows, which led to a strong presumption that all the movable machinery, assets, books and records had been removed by the management prior to the attachment and possession by the Court receiver on 07/01/2000. It is contended that since the Directors neither submitted any account of the assets nor restored the assets to the Official Liquidator, an inference is deduced that these assets (worth about Rs. 1,02,36,24,311/-) have been retained by them.

The director Dr. Jitendra N. Verma is represented by learned counsel Mr. Shashank Agarwal and Directors Mr. Ajit Chand Srimal and Mr. Shri Ravi Anand are represented by learned counsel Mr. Amol Vyas.

Mr. Shashank Agarwal, Adv., has submitted that there are no specific allegations against the Dr. Jitendra N. Verma, nor do the record reflect that he was a Director at the relevant time. Therefore, a prayer is made to quash the proceedings against Dr. Jitendra N. Verma. In support of his contention, reliance is placed upon the judgment of Calcutta High Court in **Dewrance Macneill & Co. Ltd. vs. Padam Kumar Khaitan & Ors** reported in **2011 (161) Comp Cas 402**.

Learned counsel Mr. Amol Vyas submits that the Directors he is representing have been diligently participating in the

proceedings ever since service of notices upon them. He further submits that there can be no presumption of guilt and he must be given opportunity to refute any evidence, documentary or otherwise.

Heard.

Considering the facts, this court directs the applicant to bring the entire record of the present matter before this court on the next date. The Official Liquidator attached to this court shall also mark his presence to assist the court.

Let the matter be listed on 02/02/2024.

(SAMEER JAIN),J