DBS Bank Ltd *v* M.U. Industrial Pte Ltd
[2014] SGHC 162

Case Number : Companies Winding Up No 107 of 2014

Decision Date : 14 August 2014

Tribunal/Court : High Court

Coram : Chan Seng Onn J

Counsel Name(s) : Yap Chun Pin (Harry Elias Partnership LLP) for the plaintiffs; Udeh Kumar s/o Sethuraju (S K Kumar Law Practice LLP) for the defendants.

Parties : DBS Bank Ltd — M.U. Industrial Pte Ltd

Companies – Winding up

14 August 2014

Chan Seng Onn J:

1 In 2013, DBS Bank Ltd (the "plaintiffs") provided banking facilities with a limit of S$1,700,000 to M.U. Industrial Pte Ltd (the "defendants"). Pursuant to the utilisation of these facilities, the defendants became indebted to the plaintiffs in the sum of S$1,603,373.19 inclusive of accrued interest ("the Debt") as at 4 May 2014. When the defendants did not pay the Debt, the plaintiffs served a statutory demand on the defendants on 6 May 2014.

2 The Debt was not paid although more than 21 days had elapsed since the date of service of the statutory demand.

3 After setting off the fixed deposits amounting to S$200,500 placed by the defendants with the plaintiffs as security for the facilities, the outstanding debt of the defendants inclusive of accrued interest as at 30 May 2014 was S$1,407,243.50.

4 As the defendants were deemed to be insolvent and unable to pay their debt within the meaning of s 254(1)(*e*) read with s 254(2)(*a*) of the Companies Act (Cap 50, 2006 Rev Ed), the plaintiffs applied for a winding up order on 10 June 2014 against the defendants with the Official Receiver to be appointed as the liquidator of the defendants. The hearing for the winding up application was fixed on 4 July 2014. Notice of the winding up application and the hearing date was published in the Government Gazette and advertised in The Straits Times and Lianhe ZaoBao on 20 June 2014.

5 The defendants were also served with the winding up application and supporting affidavit on 11 June 2014. These documents were left with the defendants' receptionist at the defendants' registered office at 8 Joo Koon Road Singapore 628972.

6 The consent of Mr Chee Yoh Chuang and Mr Abuthahir Abdul Gafoor, both of Stone Forest Corporate Advisory Pte Ltd (the "approved liquidators"), to act jointly and severally as liquidators if so appointed by the Court, was subsequently obtained and filed in court on 1 July 2014.

7 At the hearing before me on 4 July 2014, the plaintiffs' counsel applied to amend the Originating Summons to substitute the Official Receiver with the approved liquidators. I granted the plaintiffs

leave to amend.

8 Mr Christopher Eng, representing the Official Receiver, confirmed that all the papers for the winding up application were in order. I was satisfied that the relevant provisions of the Companies (Winding Up) Rules (Cap 50, R 1, 2006 Rev Ed) were complied with.

9 As the defendants did not send anyone to represent them at the hearing to oppose the application, and with the papers being in order, I made an order for the defendants to be wound up on the basis that the company was unable to pay its debts. I further appointed Mr Chee Yoh Chuang and Mr Abuthahir Abdul Gafoor as the liquidators of the defendants. The costs of the proceedings were also ordered to be agreed or taxed and paid to the plaintiffs out of the assets of the defendants.

10 The defendants have since appealed against my decision.

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