

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI
BENCH, MUMBAI

Transfer Company Petition No. 129 of 2016
Coram: M. K. SHRAWAT, Member (Judicial)

Order under Section 74(2) of the Companies Act 2013.

In the matter of: **M/s. Manak Overseas Pvt. Ltd.** ... Petitioner

Present: Sejal Soni, Ld. Practising Company Secretary for the Petitioner.

ORDER

(Heard on: 23.12.2016)

(Pronounced on: 23.12.2016)

1. The impugned Petition was filed before the ROC, Mumbai on 31.03.2015 under Section 74(2) Companies Act, 2013 pertaining to the repayment of deposits accepted by the Company/ Applicant.
2. The Company was incorporated on 09.02.1996. Deposits to the tune of Rs. 1,68,75,730/- were not due for repayment, however as per the amended provisions of the Companies Act, 2013, now required to be repaid subject to grant of extension of time.
3. The Petition is question was thereafter transferred to NCLT and under the provisions of Section 74(2) it was pleaded, that the time may be allowed to repay the deposits.
4. On behalf of the Petitioner Ld. PCS Ms. Sejal Soni, appeared and pleaded that a resolution has been passed seeking extension of time for repayment of deposits. The Company has given the general notice in the newspaper as well as obtained no objection certificate from the depositors. The Ld. Representatives has drawn attention to the "no objections" received from the depositors to the effect that the outstanding loan can be repaid up to 31.03.2017.
5. Further, attention has also been drawn on the financial position of the Company to demonstrate that due to reduction in turn over the repayment is not possible immediately. It has also been explained that the business model was changed from "consignment sales" to "direct sales".

Due to this change the margin of profit had gone down. However, it was informed that the Company is in the process of generating funds by liquidating idle properties of the directors. The Petitioner/ Applicant is seeking extension of time up to 31.03.2017.

6. Heard the submissions. Perused the compilation filed in the light of the provisions of the Act. On introduction of section 74(2) the law prescribes that where any deposit is accepted by a Company before the commencement of this Act, the amount of such deposit, if remained unpaid on such commencement or becomes due any time thereafter, the Company shall repay within one year from such commencement or from the date on which such payments are due, whichever is earlier. However, an exception has been carved out that on an application made by the Company, the NCLT after considering the financial condition of the Company, allow further time as consider reasonable to repay the deposits, or part thereof and interest thereon if any.

7. In the light of the above discussion I hereby hold that this a fit case to grant permission to the Petitioner to repay the amount to the depositors on or before 31.03.2017 as sought in the impugned Petition.

8. The Petitioner is directed to adopted due process of law on receipt of this order. The Petition is accordingly allowed.

Dated: 23rd December, 2016.

Sd/-
M. K. SHRAWAT
Member (Judicial)

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