

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

ORDER SHEET PART - I

16137/24

H. Shankar B.

CA 545/2016
in cop 34/2010

R.F.A./R.S.A./M.F.A./M.S.A./W.P./C.R.P./C.P.

CA 545/2016 of 20

Appellant
OFFICIAL LIQUIDATOR
M/S DT * D...
Advocate

Tools Sea Pvt. Ltd.
(In High)
Date of Filing : 11/07/2016

Respondent
MARCO LONGHI
Advocate for Respondent

K S MAHADEVAN Petitioner

Office Notes

Orders of Court

Counsel for the applicant has filed the above application U/s 454(5) and (5A) of the Companies Act, 1956, R/w Rule 132 of the Companies (Court) Rules, 1959, praying this Hon'ble Court to:
Take cognizance of the offence committed by the accused herein by not complying with the requirement of provision of section 454 of the Companies Act, 1956 and to try them for the said offence in accordance with the procedure laid down in the code of criminal procedure and punish them accordingly, and etc.,

Dr. VKJ
19.01.2017

Issue summons to the respondents.

Sd/-
JUDGE

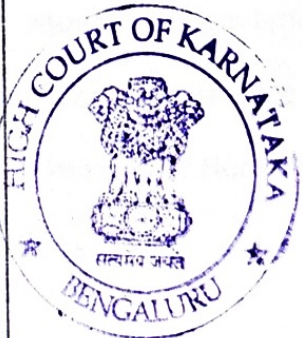
Post for orders.

Reg: Issue of summons to respondents.

nt
29/8/16

29/8/2016

Summons issued to the Respondents no. 1 and R, also the covering letter, showing the next date of Hearing as 20/4/17 are put for kind approval & issue



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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[OFFICIAL LIQUIDATOR OF VS. MARCO LONGHI AND
ANOTHER]



SGRJ

04.04.2024

(VIDEO CONFERENCING / PHYSICAL HEARING)

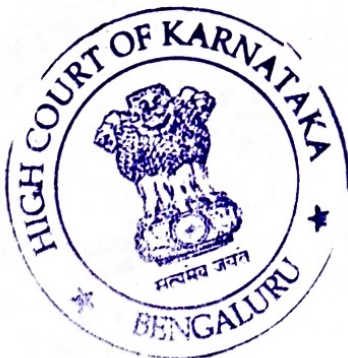
ORDER

1. In the present matter, respondent No.1 being an Italian National and resident of Italy as also the former Director of the company in liquidation could not be served. In that view, this Court had requested the assistance of Sri.Shanthi Bhushan., learned DSGI as regards the manner and methodology of service on a foreign National who was the erstwhile Director of company in liquidation, who is now residing in a country outside India. His assistance was also requested as regards the service of similar notice on erstwhile Director who is an Indian National but residing outside India.
2. Sri.Shanthi Bhushan., learned DSGI on instructions submits that this aspect is governed by the "Guidelines on Mutual Legal Assistance in Criminal Matters" issued by the Ministry of Home Affairs in the



year 2019. His submission is that any request for service of notice on a person residing abroad whether a foreign national or a Indian national would have to be addressed to the Under Secretary (Legal), Internal Security-II Division, Ministry of Home affairs, 2nd floor, Major Dhyan Chand National Stadium, New Delhi-110001, giving the details as required in terms of clause 4.3 of part 4 thereof. The telephone number of the said authority is 011-23070164 and email id is us-legal@mha.gov.in.

3. His submission is that the on the basis of the request received by the said Under Secretary depending on the country in which the persons to be served is residing as having a Mutual Legal Assistant Treaty (MLAT) with the Republic of India, necessary action would be taken by the said Under Secretary by sending the documents to the concerned authority under MLAT for service and in the event of there being no MLAT in that event, the Under Secretary would forwarded to the concerned embassy of



6

Republic of India in that country who would correspond with the authorities in that country for purpose of service of notice and depending on the cooperation extended by such local authority if service is affected, the details would be forwarded by the embassy to the Under Secretary who would thereafter forward the same to the requesting authority in the present case the official liquidator. In the event of no cooperation having been received from the local authority the embassy would reply to the Under Secretary about such non- cooperation or non-capability of service of notice.

4. The above being the short summary of the procedures the detailed procedure would have to be ascertained from the "Guidelines on the Mutual Legal Assistance in Criminal Matters 2019" issued by the Ministry of Home affairs. A copy thereof has now been furnished to the official liquidator, to enable the official liquidator to follow the procedure prescribed therein in all future matters where the person is to be served is residing outside the republic of India. A



61

copy of the said guidelines is also annexed to this order for easy reference at Annexure-A.

5. The said guideline not only applies to the official liquidator but would apply to any other governmental authority or Court requesting for assistance of service of notice, summons etc., and as such this procedure would have to be followed by the concerned authorities including Courts.
6. The Registrar (General) is also directed to forward a copy of the guidelines on the Mutual Legal Assistance in Criminal Matters 2019" issued by the Ministry of Home Affairs to all the Courts in the State of Karnataka to enable them to follow the procedure prescribed therein.
7. Insofar as the present case is concerned there being no mutual legal assistance treaty with Italy the Under Secretary had forwarded the documents for services to the embassy of India at Rome on 1.8.2022 which is yet to be replied to by the said embassy. Hence, a reminder has been issued on 1.4.2024. Sri.Shanthi Bhusahan., learned DSGI



5/2

submits that a follow up would be made to obtain early response from the embassy of India at Rome.

- 8. It is rather strange that the embassy of India at Rome has not responded to the request made on 1.8.2022 till date. It is hoped and believed that the embassy concerned has stated in the guidelines would respond at the earliest. No time frame has been fixed in the guidelines, it would also be required for the Ministry of Home Affairs to fix such time frames for each of the authorities to respond, so that matters are not held up like that in the present case.
- 9. It is only due to the intervention of Sri.Shanthi Bhushan., learned DSGI that progress has been made in the matter, this Court places the appreciation for the assistance rendered by Sri.Shanthi Bhushan., learned DSGI in the matter.
- 10. Re-list on **6.6.2024**.

Sd/-
JUDGE

'TRUE COPY'
22/10/24
Section Officer,
High Court of Karnataka
Bangalore-560 001



- a) The date on which the application was made..... 21/10/24
- b) The date on which charges and addl. charges of registration fee.....
- c) The date on which charges and addl. charges of registration fee.....
- d) The date on which the copy is ready..... 22/10/24
- e) The date on which the copy is ready for delivery..... 22/10/24
- f) The date on which copy is delivered to the applicant..... 23/10/24