GRR Global Restructuring Review

Singapore court winds up Liberty Steel affiliate, rejects abusive Gupta-linked creditor claim

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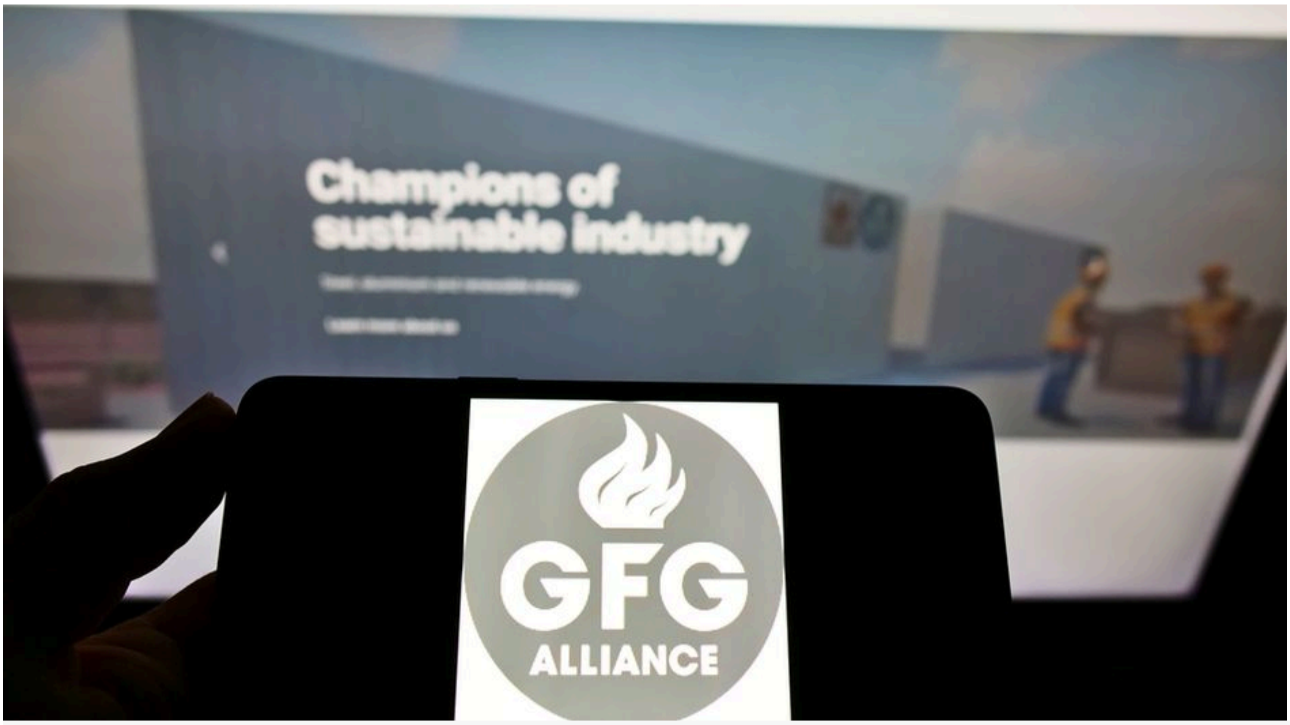

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A key company within metals magnate Sanjeev Gupta's GFG Alliance empire has been ordered into compulsory liquidation on just and equitable grounds in Singapore, after the court raised serious concerns about a Gupta-controlled creditor seeking to appoint its own liquidator on insolvency grounds.

On 30 June, **Justice Mohamed Faizal** in the Singapore High Court dismissed a winding up application against Liberty Industries Holdings (LIH) brought by Hong Kong-based, Gupta-controlled AQCEL Synergies, after finding there were bona fide disputes over an alleged debt of US$1.56 million that AAQCEL claimed it was owed by LIH.

Instead, the judge granted a separate application filed by Liberty House Group (LHG), LIH's parent company and the ultimate holding company of Gupta's GFG Alliance, to wind up the company on just and equitable grounds.

LHG's financial troubles stem from the 2021 collapse of trade finance group Greensill Capital and Greensill Bank, which provided a major source of funding for GFG Alliance. The company had provided guarantees in connection with €2.4 billion of Greensill financing partly used to fund the acquisition of European steel assets from Luxembourg-based steel manufacturer ArcelorMittal.

ArcelorMittal successfully petitioned to place LHG in judicial management in April last year over a €240 million debt owed under two arbitral awards issued in 2023 and 2024. The Singapore High Court appointed KordaMentha partners **Cameron Duncan** and **David Kim** in Singapore as LHG's judicial managers.

But the judicial managers complained that Gupta, GFG Alliance and other executives had repeatedly failed to provide financial records, management accounts and information about substantial intercompany transactions. They also sought to investigate the destination of approximately €1.6 billion of financing that appeared unaccounted for after the acquisition.

In light of those circumstances, Duncan and Kim formed the view that they could not achieve their objectives and sought to place LHG in liquidation.

The Singapore High Court wound up the company in November and appointed the duo as joint liquidators, who continued their requests to Gupta, GFG Alliance and other executives for information, which Justice Faizal noted were not provided by the time he heard the winding up petitions.

Gupta-controlled AQCEL served statutory demands on LIH in December and petitioned to wind up it up the following month based on an alleged net debt of US$1.565 million.

In March, LHG responded by filing its own petition seeking to wind up LIH on just and equitable grounds.

Shook Lin & Bok partners **Jamal Siddique** and **Poh Yee Shing**, with senior associate **Suresh Viswanath** and associate **Ramrueben John** represented the liquidators, while Allen & Gledhill partners **Edward Tiong** and **Fay Fong**, with associate **Kheshin Cheong** acted for AQCEL.

"This is a significant decision on disputed debts, abuse of process in winding-up proceedings, and the role of court-supervised liquidation where there are serious concerns over corporate governance and the need for investigation," Shook Lin & Bok said in a memo.

Alleged debt and manufactured creditor

AQCEL argued that the alleged debt it was owed stemmed from setting off liabilities between the two companies, leaving it as a creditor entitled to petition for liquidation.

The debt, Justice Faizal's ruling explained, was said to arise from a series of intercompany assignments, novations and debt transfers involving amounts exceeding US$74 million that happened on 5 April 2024.

AQCEL contended that LIH was insolvent as it failed to satisfy the statutory demands and that an independent liquidator should be appointed rather than LHQ's liquidators because the liquidators allegedly had conflicts of interest and preconceived views about the validity of the debt.

But LHG argued that AQCEL's alleged debt was disputed on substantial grounds and bona fide grounds. It challenged the validity of the deeds relied upon by the creditor and the existence of the underlying liabilities supposedly created by the intercompany transactions, and argued that the transactions had been engineered by Gupta – who sat on both sides of many of the arrangements – to manufacture AQCEL's position as a major creditor.

It also contended that Gupta's conduct showed a systemic lack of probity and that confidence in his management of LIH had been lost, claiming that records were being withheld from the liquidators and that the debt structure had been manipulated to obstruct investigations into the Liberty Group's financial affairs.

Addressing AQCEL's petition, Justice Faizal found multiple triable issues concerning the validity of the underlying documents and the existence of the debts themselves.

The judge held that AQCEL had failed to establish that key assignment deeds were formally valid under the applicable Hong Kong law and had not sufficiently proved the legal requirements for a Singapore company to execute those deeds through a sole director.

The judge also noted that despite executing most of the deeds in April 2024, AQCEL only took steps to recover the debt, sending a demand letter and seeking the winding up order, after the winding up application for LHG was filed.

"In my view, this suggests that these steps... were a response to the Liquidators' acts, rather than being a genuine independent administrative restructuring or independent debt recovery exercise," he said.

Justice Faizal also identified significant evidential deficiencies in several of the underlying transactions. In relation to one purported liability of US$64.1 million, he found an unexplained discrepancy of roughly US$5.9 million. Other alleged liabilities were unsupported by documentation showing that loans had actually been drawn down or that obligations had been properly created and transferred among group companies.

“The existence of these liabilities, which would necessarily require the adducing of the relevant accounts and making factual findings on these accounts, is a matter apt to be determined at trial,” the judge said.

Having found genuine disputes regarding the debt, Justice Faizal held that AQCEL lacked standing as a creditor and that the court therefore had no jurisdiction to make a winding-up order based on its petition.

The judge went on to conclude that the application would also have failed as an abuse of process, highlighting the timing of numerous debt assignments executed after setbacks in enforcement proceedings involving ArcelorMittal and observing that many of the transactions had been approved by Gupta acting on multiple sides of the arrangements.

Justice Faizal said the evidence pointed to “a pattern of deliberate legerdemain and manipulation designed to engineer a specific outcome”. He found that the transactions and subsequent petition had been orchestrated “for the collateral purpose of maintaining Gupta’s influence as the majority, if not sole, creditor over LIH’s insolvency process and to thwart investigation attempts by the Liquidators”.

Turning to LHG’s petition, the judge found that Gupta had demonstrated a lack of probity in the management of LIH. He pointed to the unexplained transactions, apparent inflation of liabilities, debt waivers that appeared detrimental to LIH and the continuing failure to provide records sought by liquidators.

Those circumstances justified a loss of confidence in LIH’s management and supported a winding-up order on just and equitable grounds, he said.

Justice Faizal also stressed the importance of enabling a proper investigation into LIH’s affairs, rejecting arguments that alternative remedies, including changes to the company’s board or a voluntary liquidation, would provide an adequate substitute for a court-supervised winding up.

He held that a compulsory liquidation was necessary to facilitate investigations into the company’s records, transactions and potential misconduct.

The judge also rejected the conflict of interest argument from AQCEL, finding that its alleged concerns were unsupported and that the liquidators’ familiarity with the Liberty group structure and financial affairs would avoid duplication of work, delays and additional expense.

In the Singapore High Court

- **Justice Moahamed Faizal**

Joint liquidators to Liberty House Group

- KordaMentha

Partners **Cameron Duncan** and **David Kim** in Singapore

Counsel to Liberty House Group

- Shook Lin & Bok

Partners **Jamal Siddique** and **Poh Yee Shing**, with senior associate **Suresh Viswanath** and associate **Ramrueben John** in Singapore

Counsel to AQCEL Synergies

- Allen & Gledhill

Partners **Edward Tiong** and **Fay Fong**, with associate **Kheshin Cheong** in Singapore

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