



THE FIRST OF ITS KIND

Kavita Rana of Edwards Duthie Shamash on a groundbreaking case that has resulted in what is known as a Yuzu Order, whereby even a dissolved company can now apply for a freezing injunction

When Mr Justice Zacaroli, sitting in the Chancery Division of the High Court of Justice, recently granted a dissolved company which had been struck off the register a freezing injunction, it was the first order of its kind.

The claimant company (a hair and beauty business called Yuzu, so hence the name of the subsequent order) applied for the continuation of a freezing injunction which it had obtained against its former accountant, who was suspected of defrauding Yuzu of more than £300,000. The claimant had a pending application made by a director and shareholder, to restore it to the register under Section 1029 of the Companies Act 2006.

Mr Justice Zacaroli found that there was compelling evidence that the defendant had defrauded the claimant company in excess of £300,000 and further, the defendant had by his failure to file accounts, caused the claimant company to be struck off.

In granting the original freezing injunction, Mrs Justice Falk did so on the pragmatic basis that the effect of the restoration, if granted, would be retrospective. However, Mr Justice Zacaroli preferred a different approach and to continue the freezing injunction despite the fact the claimant company did not exist.

However, Mr Justice Zacaroli held that under Section 37 of the Senior Courts Act 1991, the court had jurisdiction to make a freezing injunction in the context of the application to restore. He considered that it was wide enough to justify an order being granted to the claimant in order to freeze the assets of the



ABOVE: The groundbreaking ruling was made by Mr Justice Zacaroli, sitting in the Chancery Division of the High Court of Justice

defendant against whom the claimant, once it was restored, would have a claim as a result of the alleged fraud. To make the order in favour of Yuzu, he allowed the former director to be a co-applicant so that it could be granted in favour of an existing legal person.

The assets of the defendant included property. He is now at serious risk of losing his home as a result of the alleged fraud. Property of an individual or company is an essential asset that can be used by way of enforcement for debts or monies due.

Not only is the defendant at serious risk of losing his home, but he is also serving an 18 month prison sentence at HMP Pentonville as a result of already breaching the terms ordered by the court in the freezing injunction.

I, Kavita Rana of Edwards Duthie Shamash, was the Solicitor for the claimant

and Rory Brown of 9 Stone Buildings was the claimant's counsel. The Judgment is the first known of its kind, in which such an order has been made in the context of an application by a dissolved company, applying for a freezing injunction. The judgment of Mr Justice Zacaroli shows the pragmatic approach taken by the court in making the order, which was necessary to prevent an alleged fraudster making himself judgment-proof, in spite of considerable conceptual and practical difficulties.

A 'Yuzu Order' therefore demonstrates that even when a company is dissolved, it is not necessarily a bar to applying for a freezing injunction. ■

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