THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

COMPANY APPLICATION Nos.519, 520, 521, 562, 563, 566, 567 and 568 of 2015
in C.P.Nos.10,16,15, 11, 13, 12, 14 of 1999 and 103 of 2008

06.04.2015

Between:

M/s.The Commercial Benefit Corporation (in liqn.) and others

…Petitioners

And

Sri B.Sreeramaiah Chetty and others

…Respondents

Counsel for the petitioners: Mr.M.Anil Kumar
for the Official Liquidator

Counsel for respondents: Mr. L.Venkateswar Rao

The Court made the following:

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COMMON ORDER:

These company petitions have been filed against different firms for an order to wind up them for the debt allegedly due to the respective petitioners.

Except in C.P.No.103 of 2008, in all other company petitions, the Official Liquidator of this Court was appointed as Provisional Liquidator on various dates in 1999. In C.P.No.103 of 2008, the Provisional Liquidator was appointed in the year 2008. This Court also by orders, dated 26.11.1999, ordered provisional winding up of seven firms in C.P.Nos.10 to 16 of 1999 and orders finally winding up the said firms were passed on 02.09.2002. With regard to C.P.No.103 of 2008, by order dated 12.08.2009, this Court passed final winding up order.

The Official Liquidator has taken possession of the immovable properties and also sold the same for discharging the liabilities of the firms and maintained common account in respect of all the firms as the value of the property of each firm is not known to him. During the course of winding up proceedings and in pursuance of this Court's order, dated 27.11.2007 in C.A.No.1668 of 2007, the Official Liquidator has invited the claims of the creditors of seven out of eight firms. In all, 1009 claims were admitted and as against the sum of Rs.5,00,31,972.34ps, a sum of Rs.4,86,40,572.87ps was admitted while rejecting 47 claims by the Official Liquidator. The Official Liquidator has given the details of the amounts admitted respect of each of the seven firms in his affidavit filed in support of C.A.No.519 of 2015 in C.P.No.10 of 1999.

By orders, dated 25.09.2008 in C.A.(SR)No.5263 of 2008, dated 03.03.2009 in C.A.No.154 of 2009, dated 31.03.2010 in C.A.No.223 of

2010 and dated 20.04.2011 in C.A.No.545 of 2010, this Court has allowed payment of 100% dividend to the creditors whose claims have been admitted to proof. Subsequently, C.A.Nos.409 and 441 of 2015 were filed for varying the list of creditors and for making payment to three more creditors and interest to all the creditors of seven firms. However, the said company applications were dismissed as withdrawn, vide this Court's common order, dated 23.03.2015.

With regard to M/s.The Commercial Chits Corporation (in liqn.) – respondent in C.P.No.103 of 2008, in all, 137 claims were received from the creditors of the said firm. The Official Liquidator has admitted 119 claims and rejected 18 claims. He has filed C.A.Nos.376 and 377 of 2015 for taking on record *form* 71 and for making payment of the admitted amounts and interests. These applications were allowed by this Court, by order, dated 17.03.2015.

The Official Liquidator has filed these company applications in the respective company petitions. In the affidavits filed in support of these company applications, while pleading the abovenoted facts, he has also stated that his office has received a sum of Rs.35,45,808.22ps from the District Collector, Chittoor District on 17.09.2008, towards sale of petroleum products and lease rentals in respect of 'Sundar Raj Petrol Bunk' situated in property bearing No.4-2-27, Patel Road, Madanapalle Town, Chittoor District; that another sum of Rs.49,50,000/- has been received as rent from the Indian Oil Corporation, Tirupathi, for the period from July, 2008 to February, 2015 and that Smt.G.Seethalakshmi and three others have filed C.A.No.1798 and 1799 of 2011 for restraining the Official Liquidator from initiating any measures for disposing of the petrol pump; and for release of the petrol pump and rentals derived therefrom in their favour. That by separate orders passed today, this Court dismissed C.A.No.1798 of 2011 as infructuous and allowed C.A.No.1799 of 2011 as prayed for.

The Official Liquidator further averred that out of the total amount of Rs.20,40,97,976/- recovered through sale of assets, in addition to the sum of Rs.84,95,808.22ps comprising Rs.35,45,808.22ps received from the District Collector from out of the sale proceeds of the petroleum products and Rs.49,50,000/- received from the Indian Oil Corporation towards rents from the petrol pump referred to above, a sum of Rs.8,43,31,147.22ps is payable to the creditors/subscribers and the balance of Rs.11,97,66,828.78ps is liable to be returned to the investors, who have contributed the capital. After working out the proportionate contribution of each of the investors, the Official Liquidator has indicated that as against each rupee the investor is entitled to return of capital at the rate of Rs.6.6824386. On applying the said rate, the Official Liquidator has indicated different amounts in respect of different firms. The Official Liquidator has, therefore, prayed for accepting the report regarding return of capital at the above mentioned rate and for permission for making payment of return of capital to the respondents shown in each of these applications.

Mr.L.Venkateswar Rao, learned counsel for the respondents, submitted that his clients are fully satisfied with the calculations made by the Official Liquidator and that they are willing to receive the amounts offered by the Official Liquidator.

In the light of the above submissions, the Official Liquidator is directed to make payment of return of capital in respect of the respondents as per the calculations shown in the respective company applications.

At the hearing, it is submitted that the amounts are lying in fixed deposit of State Bank of India, State Bank of Hyderabad and Punjab National Bank. Therefore, it is appropriate that separate bank accounts are opened in respect of the respective respondents and the amounts lying in the fixed deposit are transferred to these accounts proportionately. It is further ordered that the costs of these company applications do come out of the assets of the firms in liquidation.

These Company Applications are accordingly allowed.

(C.V.NAGARJUNA REDDY, J)

06th April, 2015
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