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

COMPANY APPLICATION Nos.374 and 375 of 2015

in

C.P.No.28 of 1987

17.03.2015

Between:

M/s.Webber Electric (P) Ltd., (in liqn.)

…Applicant

Counsel for Official Liquidator: Mr. M.Anil Kumar

The Court made the following:

COMMON ORDER:

Company Application No.374 of 2015 is filed by the Official Liquidator of M/s.Webber Electric (P) Ltd., (in liqn.) for taking certificate in *form* 71 in respect of the company in liquidation relating to the claim of its secured creditor with the memorandum of admission/rejection of the claims on record; to direct the Registrar to notify the said *form* 71 on the notice board of this Court in terms of Rule 169 of the Companies (Court) Rules, 1959 (for short 'the Rules') and to order that the costs of this application do come out of the assets of the company in liquidation.

Company Application No.375 of 2015 is filed by the Official Liquidator of M/s.Webber Electric (P) Ltd., (in liqn.) for the following reliefs:

i. permit the Official Liquidator to declare & disburse dividend for an amount of Rs.6,57,647/- @33.9309% paise in a rupee to the Syndicate Bank, Nellore, after adjustment of interim payments already paid them in pursuance of Hon'ble Court order as per Annexure-C;

ii. authorize Official Liquidator to open a separate dividend account in Punjab National Bank and to pay the dividend to the secured creditor out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959;

iii. permit Official Liquidator to pay priority expenses of Rs.2,09,843/- to Syndicate Bank, Nellore;

iv. permit the Official Liquidator to dispense with the publication of notice of dividend in newspapers as the dividend is sought to be paid to only one creditor;

v. permit the Official Liquidator to dispense with the adjudication of claim of APIIC and CTO Nellore Preferential/unsecured creditors of the company;

vi. permit the Official Liquidator to send notice of dividend in Form No.138 to the secured creditor viz., Syndicate Bank, Nellore;

vii. authorize Official Liquidator to fix the schedule for making payment;

viii. authorize Official Liquidator to transfer the unpaid dividend, if any, remaining in the dividend account, after the expiry of the 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956;

ix. authorize Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of dividend and to effectively implement the orders of this Hon'ble Court in that regard; and

x. order that the cost of this application do come out of the assets of the Company (In Liqn.)

In the affidavit filed in support of these applications, the Official Liquidator has, *inter alia,* averred that the Syndicate Bank, Nellore is the only secured creditor, which has made claim for Rs.69,51,297.15 ps; APIIC, Nellore has made claim for Rs.2,30,478.40ps and CTO, Nellore has made claim for Rs.11,91,422.00; that the Official Liquidator adjudicated the claim of Syndicate Bank, Nellore and issued *form* 6, dated 15.05.2009, admitting an amount of Rs.53,83,433.22ps as secured debt with charge only on current assets of the company, rejecting the balance claim of Rs.15,67,863.93ps beyond the date of winding up order; that Syndicate Bank, Nellore filed an appeal against the said adjudication order and that this Court by order, dated 02.09.2010, in Company Appeal No.25 of 2009 while setting aside the adjudication order, remitted the case to the Official Liquidator for re-adjudication of the claim of Syndicate Bank duly taking into consideration the document in *form* 8 filed by Syndicate Bank.
In compliance to the said orders, the Official Liquidator adjudicated the claim of Syndicate Bank, Nellore and issued *form* 69, dated 05.01.2011, reiterating the previous adjudication and that the other two claims received from APIIC, Nellore and CTO, Nellore, which fall under the category of preferential/unsecured debt were not adjudicated as the amount realized is not sufficient to discharge the admitted secured debt.

This Court by order, dated 10.03.2015, in Company Application No.233 of 2015, has condoned the delay of 3796 days in filing certificate in *form* 71 of the Rules.

The Official Liquidator has further averred that on 05.02.2015, a sum of Rs.8,77,490.61ps is available to the credit of the company in liquidation. He has prayed that he may be permitted to reimburse/pay a sum of Rs.2,09,843.00 to Syndicate Bank, Nellore towards watch and ward expenses and advertisement charges as priority expenses and further permit him to retain Rs.10,000/- towards refund of initial expenses deposited by the petitioner in the company petition filed for its winding up. He has further prayed for sanction for declaration and disbursement of dividend to the entitled secured creditor i.e., Syndicate Bank, Nellore @ 33.9309% paise in a rupee for an amount of Rs.6,57,647/- after adjustment of interim payments already made to them in pursuance of the orders passed by this Court.

In the light of the reasons assigned in the affidavit filed by the Official Liquidator in support of these applications, all the prayers made in these two company applications are allowed.

The Company Applications are accordingly allowed.

(C.V.NAGARJUNA REDDY, J)

17th March, 2015
GHN