Company Application No.241 of 2016
in
C.P.No.117 of 2004

K.RAVICHANDRABAABU,J.

This Company Application No.241 of 2016 is filed by the State Bank of India, Stressed Assets Management Branch, Coimbatore, seeking for a direction to the Official Liquidator to release a sum of Rs.7,22,00,000/- with accrued interest from June, 2014, till date to the applicant from the sale proceeds of the assets of the Company viz., M/s. Aruna Textiles and Exports Limited.

2. The case of the applicant is that the Company in liquidation availed credit facility from the applicant Bank to the tune of Rs.3.00 crores during the year 1996 to secure the loan by mortgaging the properties and also the plant and machineries, raw materials and stock in trade as securities. It is their case that in pursuant to the order of winding up of the Company, the assets of the Company were taken over by the Official Liquidator and the applicant Bank filed its claim before the Official Liquidator on 11.03.2009. It is the further case of the applicant that the Official liquidator though rejected the claim of the applicant in respect of the total claim of Rs.19,74,66,827/-, however, allowed the claim and admitted a sum of Rs.9,62,08,732/- as an outstanding dues payable to the applicant. It is the further case of the applicant that the

assets of the Company charged to the Bank was sold for a sum of Rs.7.22 crores and the said amount is lying with the Official Liquidator. Therefore, the said sum may be directed to be released, is the prayer sought for in this application.

3. The learned Official Liquidator has filed a report wherein he has stated that apart from the claim of the applicant Bank which was adjudicated for a sum of Rs.9,62,08,732/-, still further adjudication in respect of the claim made by workmen, Employees Provident Fund and Karur Vysya Bank is pending. At paragraph Nos. 5 , 6 and 7, the learned Official Liquidator states as follows:

> “5. That the Official Liquidator submits that he has received the following claims from the creditors of the company in liquidation as follows:

Sl.No.	*Nature of Creditors*	*Amount claimed Rs.*	*Status*
1	523 Workmen Creditors filed Voluntarily vide form No.67 on 17.02.2014	2,78,37,767/-	These claims are yet to be adjudicated.
2	Employees Provident Fund claim filed on 11.08.2015	1,39,25,552.65	Yet to be adjudicated.
3	State bank of India, Coimbatore	29,36,75,559/-	Adjudicated and Rs.9,62,08,732/- has been admitted.
4	Karur vysya Bank, Karur filed on 10.12.2003	11,63,20,000/-	Yet to be adjudicated.

6. That the Official Liquidator submits that as per Section 529 (A) of Companies Act, 1956, the Secured creditors and workmen creditors stand paripasu in their rights over the funds available with the Official Liquidator. Furthermore, as per Hon'ble Supreme court Judgment is Eskay Pharmaceuticals case, the EPFOP enjoys priority over all other creditors, including that of the applicant.

7. The Official Liquidator humbly submits that only the claim of the applicant Bank has been adjudicated and admitted to the tune of Rs.9,62,08,732/- (Copy of adjudication order dated 11.02.2016 is annexed as Annexure "A") and all other claims are yet to be adjudicated."

4. Considering the above stated facts and circumstances and considering the fact that there are other claims which have to be still adjudicated by the learned Official Liquidator, resulting out of the sale proceeds of the assets of the Company, and considering the fact that the claim of the applicant has already been adjudicated to the tune of Rs.9,62,08,732/-, this Court is of the view that as an interim measure, a sum of Rs.2.00 crores may be directed to be paid to the applicant, subject to the condition that the applicant should furnish an undertaking to refund the amount, if any amount is paid in excess as assessed by the Official Liquidator, after adjudicating all other claims. Needless to say that if sufficient amount is available after adjudicating the

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other claims, the claim of the applicant Bank in respect of the balance amount out of the amount already allowed and admitted, can be considered by the learned Official Liquidator, accordingly, in future. The learned Official Liquidator shall adjudicate the other claims without loss of further time as expeditiously as possible.

5. With the above direction, this company application is ordered.

23.03.2016

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Note: Issue order coy on 28.03.2016

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