IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

OFFICIAL LIQUIDATOR REPORT NO.370 OF 2016
WITH
COMPANY APPLICATION NO.271 OF 2017
COMPANY APPLICATION NO.354 OF 2017
IN
COMPANY PETITION NO.1126 OF 2001
IN
B.I.F.R. CASE NO.220 OF 1997

In the matter of Companies Act, 1956
And
In the matter of M/s.Gandhinagar Electronics Ltd. (In Liquidation)

Mr.Vinod Sharma Official Liquidator present.

Mr.Pola Raghunath, Deputy Official Liquidator present.

Mr.M.P.Rao a/w Mr.M.S.Bhardwaj and Mr.V.P.Verma for applicants.

CORAM : K.R.SHRIRAM,J
DATE : 3.11.2017

P.C.:-

1 On 1.11.2017 counsel Mr.Rao made elaborate submissions. The official liquidator was also heard. Official Liquidator gave the following chart of claims against the company in liquidation:-

M/s. Gandhinagar Electronics Ltd. (In Liqn.)

I) Govt. Dues / workers dues

Sr. No.	**Name of Claimant**	**Claim Amount (In Rs.)**	**Amount Admitted**	**Claim Type**
1.	GSFC	8,22,697	Pending (claimant has to obtain an order of Condonation of Delay from	Secured creditor

			Hon'ble High Court)	
2.	Commercial tax Department, Banglore, Karnatak	52,85,995/-	52,85,995/-	Govt. Dues
3.	Income Tax	15,12,182	Rejected (not in prescribe format)	Govt. Dues
4.	Commissioner of Custom	11,00,000	Rejected (not in prescribe format)	Govt. Dues
5.	Akhil Gujarat General Majdoor Sangh	1,48,55,364	Rejected (not in prescribe format)	Workers Union (Affidavit of proof of debt not received till date)
6.	Central Excise	77,07,531	51,95,281	Govt. Dues
	Total	**31283769**		

II) Ordinary Dues :

Sr. No.	Name of Claimant	Claim Amount (In Rs.)	Amount Admitted	Claim Type
1.	Indian Bank	82,55,106.36 + Interest 1,10,14,999.48 = 1,92,70,105.84	1,80,91,432	Unsecured creditor
2.	Supreme Industries	43,05,919.00	43,12,491.00	Unsecured creditor
	Total	**2,35,76,024.81**	2,24,03,923.00	

III) Applicant Dues :

Sr. No.	Name of Claimant	Claim Amount (In Rs.)	Amount Admitted	Claim Type
1.	Adity Developers	21,28,59,680	21,28,59,681	Secured creditor
2.	Shree Kaniya	11,90,25,998	6,26,636	Secured

	Corporation			creditor
	Total	**33,18,85,678/-**	**27,54,94,317/-**	

2 Pursuant to orders passed by this court, valuation of immovable properties situated at plot no.A-12, 13, & 14 of sector 25, Gandhinagar Electronic Estate, Gandhinagar Gujarat (said property) was called for and one M/s.Concrete Consultation submitted the valuation report. Valuation indicated the market value of the said property was Rs.12,98,02,525/-. The valuer after deducting 6& ½% of the market value, indicated the realizable value of Rs.12,13,65,381/-. Based on that, this court was pleased to fix the reserve price for sale of the said property at Rs.12 crores and EMD was fixed at 25%. Notice of sale was advertised. Only one bid was received and the same was rejected by an order dated 13.10.2016 as it was far below the reserve price.

3 The official liquidator received a letter dated 19.9.2016 from MSB Legal, Advocate and Legal Consultant on behalf of their client M/s.Adity Developers Corporation and Shree Kanaiya Corporation, assignee of secured creditors i.e., IDBI, ICICI and IIBI and informed that in absence of any bid or offer, their client was willing to purchase the property for Rs.12 crores, the reserve price fixed by this court. They also stated that their clients are ready and willing to discharge the liabilities as disclosed to Official Liquidator as

per the provisions of law applicable in such cases being secured creditors of the company. Further they have stated that, they submitted their proposal for willingness to purchase the land kept for sale against the recoverable dues of their clients being secured creditors, entitled to recovery in terms of recovery certificates issued by Mumbai Debt Recovery Tribunal No.-II in R.P.No.162 of 2005, DRT-II, Mumbai in O.A.No.1622 of 1999, in favour of IIBI Ltd., Standard Chartered Bank and IDBI, whose dues assigned to their clients & entitled for recovery of approximately Rs.99.32 crores. It was also stated that their clients are ready and willing to purchase the said property kept for sale at Rs.12 crores being Reserve price, in case their clients were allowed to make a formal offer without deposit of EMD as required by this Court.

4 After Shri Rao was heard and also after hearing the Official Liquidator, as per the Official Liquidator, the amount claimed towards Government dues and workers is Rs.3,12,83,769/- and an amount of Rs.2,35,76,024.81/- is payable to 2 unsecured creditors, i.e., Indian Bank and Supreme Industries Limited.

5 So far as Government dues and workers are concerned, against the claim of central excise authorities of Rs.77,07,531/-, the Official Liquidator has admitted sum of Rs.51,95,281/-. Mr.Rao states

that the Official Liquidator may pay Rs.51,95,281/- to central excise authorities and the balance amount of Rs.25,12,250/-, it may be retained by the Official Liquidator subject to receiving an application from central excise authorities to rework their claim amount or central excise authorities challenging the finding of the Official Liquidator. The Official Liquidator may give period of 6 months for central excise authorities to make necessary application.

6 Mr.Rao states that so far as the other 5 claimants viz.GSFC; Commercial Tax Department; Banglore, Karnataka ; Income Tax; Commissioner of custom and Akhil Gujarat General Majdoor Sangh are concerned, the Official Liquidator may, subject to being satisfied that amounts are payable, can even go ahead and pay the entire amount claimed.

7 Mr.Rao states that instead of the sum of Rs.3 crores which they have agreed to deposit for paying off the liability, his client will pay sum of Rs.3,30,00,000/- to the Official Liquidator to pay off the liability as recorded in paras-5 and 6 above and his client should not be called upon to pay balance amount of Rs.8,70,00,000/- towards the consideration for sale of the said property. Mr.Rao states that his clients, the purchasers Adity Developers Corporation and Shree Kanaiya Corporation will not make any further claim from the Official Liquidator. This is because even if Rs.8,70,00,000/- is deposited with

the Official Liquidator, Mr.Rao's clients are also secured creditors of the company and the amount admitted to be paid is Rs.27,54,94,317/-. Therefore, even if the amount of Rs.8,70,00,000 is deposited, that amount has to be repaid to Mr.Rao's clients.

I agree with the submission made by Mr.Rao. Therefore, the amount of Rs.3,30,00,000/-, which Mr.Rao states purchasers who are also secured creditors will be depositing within one week from today with the Official Liquidator, can be used to pay off Government dues and workers upto total sum of Rs.3,12,83,769/- and as suggested by Shri Rao the balance amount could be distributed to the unsecured creditors.

8 Official Liquidator does not find anything adverse in this suggestion of Mr.Rao. Mr.Rao also tenders minutes of order dated 3.11.2017, signed by Mr.Siyaram Gupta, proprietor of Adity Developers Corporation and Shree Kanaiya Corporation. The same is taken on record.

9 In the circumstances, following order is passed :-

ORDER

(a) Proprietor of Shree Kanaiya Corporation and Adity Developers Corporation to deposit Rs.3,30,00,000/- with the Official Liquidator within one week from today. This amount of Rs.3,30,00,000/- to be utilized by the Official Liquidator to pay off Government dues and workers dues upto Rs.3,12,82,769/- as per the chart given below :-

Govt. Dues / workers dues

Sr. No.	Name of Claimant	Claim Amount (In Rs.)
1.	GSFC	8,22,697
2	Commercial tax Department, Banglore, Karnatak	52,85,995/-
3.	Income Tax	15,12,182
4.	Commissioner of Custom	11,00,000
5.	Akhil Gujarat General Majdoor Sangh	1,48,55,364
6	Central Excise	51,95,281
	Total	**2,87,71,519**

Retain Rs.25,12,250/- and invest the same in fixed deposit with a nationalised bank to be utilized to pay central excise authorities, if required.

(b) The balance amount of Rs.17,16,231/- to be paid to unsecured creditors in proportion to their respective admitted amount as mentioned below :-

Sr. No.	Name of Claimant	Claim Amount (In Rs.)	Amount Admitted	Claim Type
1.	Indian Bank	82,55,106.36 + Interest 1,10,14,999.48 = 1,92,70,105.84	1,80,91,432	Unsecured creditor
2.	Supreme Industries	43,05,919	43,12,491	Unsecured creditor
	Total	**2,35,76,024.81**	2,24,03,923	

(c) Within one week from today Official Liquidator shall communicate his decision to the central excise authorities. Official Liquidator shall grant six months period for central excise department to contest the findings of the Official Liquidator so far as their claim is concerned before taking further steps ;

(d) Within four weeks after 12 weeks from the date hereof, the Official Liquidator shall execute necessary documents to convey the said property in favour of Adity Developers Corporation and/or Shree Kanaiya Corporation. At the time of execution, Official Liquidator shall also hand over all documents available in his record to Adity Developers Corporation and/or Shree Kanaiya Corporation with respect to the said property. In the sale deed, value of property will be shown as Rs.12 crores only ;

(e) Adity Developers and Shree Kanaiya Corporation shall have no further claim against Official Liquidator ;

(f) Accordingly, Official Liquidator Report No.370 of 2016, Company Application No. 354 of 2017 and Company Application No.271 of 2017 stand disposed.

(K.R.SHRIRAM,J)

KJ