THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 648 OF 2017
IN
R.C.C.No.10 OF 2010

O R D E R:

This Company Application is filed under Sections 528; 529; 529A; 530 & 460(4) of the Companies Act, 1956 read with Rules 275, 276 and 290 of the Companies (Court) Rules, 1959 (for short, 'the Rules') for an order to:

i) Permit the Official Liquidator to reimburse the priority expenses viz., an amount of Rs.3,400/- to ICICI, Somjiguda, Hyderabad; Rs.3,400/- to SBI, R.R. branch, Secunderabad and Rs.1,600/- to M/s. Integrated Finance Company Ltd., Chennai; aggregating to a total amount of Rs.8,400/-;

ii) Permit the Official Liquidator to declare the dividend @ 7.598554% against the admitted secured debt and to disburse the balance dividend of Rs.13,56,697/- to IDBI, R-1; Rs.17,092/- to IFCI, R-2 & Rs.1,82,870/- to IARCL, R-3, as detailed in para-8 of the accompanying affidavit, after adjustment of interim dividends already paid to them in pursuance of orders of this Hon'ble High Court from time to time;

iii) Authorise the Official Liquidator to open a separate dividend account in Punjab national bank and pay the dividend to the secured creditors out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959;

iv) Dispense with the publication of notice of dividend in newspapers;

v) Authorise the Official Liquidator to send notice to dividend in Form No.138 to the three secured creditors;

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

vii) Order that the costs of this application do come out of the Estate of the Company (in Liqn.); and

pass such further or other order or orders as this Hon'ble Court may deem fit and proper.

A perusal of the affidavit filed in support of the Company Application discloses that the assets of the Company under liquidation (lands, buildings, plant & machinery) were put to auction as per the order dated 14.12.2015 in .C.A.No.1130 of 2005, passed by this Court, and were eventually sold for a sum of Rs.291 lakhs. IDBI, IFCI, ICICI and SBH are the secured creditors and IDBI, IFCI, ICICI, SBI and M/s. Integrated Finance Company Limited, had shared the priority expenses such as watch and ward salaries, publication charges etcetera. In C.A.Nos.1447 of 2007 and 113 of 2008, IFCI and IDBI sought for reimbursement of priority expenses and this Court allowed the said applications by orders dated 10.09.2007 and 13.03.2008 respectively, permitting the Official Liquidator to reimburse the priority expenses of Rs.2,51,663/-. It is to be noted that the priority expenses of Rs.8,400/- (in total) provided by ICICI; SBI and M/s. Integrated Finance Company Limited has not been reimbursed to them. It is to be further observed that the SBI and workmen of the company have not made any claim against the company (in liquidation) as the workmen dues were settled prior to the winding up of the company and the SBI has charge over Trade Debtors, Stock in trade and work in progress. It is to be noted that after recovering the excess payment made to IFCI, the actual interim paid to the three secured creditors viz., IDBI; IFCI and SCB (ICICI), as on date, is Rs.2,85,83,341/- and as per Section 529(a) of the Companies Act, 1956 still the above secured creditors are entitled for the balance dividend of Rs.13,56,697/-; Rs.17,092/- and Rs.1,82,870/- (in total Rs.15,56,659/-) respectively; and this amount is after retaining a sum of Rs.24,630-46 ps., towards priority expenses, Central Government fee, audit fee & liquidation expenses. Therefore, an amount of Rs.15,56,659/- (Rs.15,81,289-46 ps., - Rs.24,630-46 ps.,) is available for declaring and disbursement of dividend to the three secured creditors of the Company (in liquidation) after payment of priority expenses to the secured creditors viz., IDBI (R-1), IFCI (R-2) & IARCL (R-3). As seen from the affidavit, it is pertinent to note that ICICI assigned the debt to SCB and SCB in turn assigned the debt to IARCL. Therefore, IARCL is entitled for a balance dividend of Rs.1,82,870/-.

Therefore, having regard to the facts and circumstances of the case, the Company Application is ordered as prayed for.

CHALLA KODANDA RAM, J

Date:20.07.2017
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