THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

COMPANY APPLICATION No.789 of 2017

in

COMPANY PETITION No.5 OF 1981

O R D E R:

M/S. Sri Jaya Investments Limited has been ordered to wound up by this Court on 28.08.1981 and the Official Liquidator attached to this Court was appointed as the Liquidator of the Company under the provisions of Section 449 of the Companies Act, 1956 (for short 'the Act').

2. After obtaining permission of this Court in CA.No.139 of 1985, claims were invited from the creditors of the Company, pursuant to which 150 claims were received claiming Rs.12,46,624-80 ps. These claims were adjudicated and requisite form No.71 as provided under the provisions of the Companies (Court) Rules 1959, was filed.

3. As per the said form, preferential claims were admitted for Rs.9,819/- on account of rent arrears apart from preliminary expenses provided by the petitioner, who sought winding up of above company, and Rs.10,36,076/- was admitted as ordinary claims. The remaining were rejected.

4. On 03.03.1994 in C.A.No.30 of 1994 this Court permitted the Official Liquidator to declare dividend of 100% to the preferential creditors and @ 25 paise in a rupee to the un-secured creditors.

5. The Official Liquidator contends that payment of declared dividend was made to all the creditors, who submitted discharge receipt in Form No.138; there is unpaid dividend in respect of 73 claimants amounting to Rs.1,02,509/- since they did not submit the discharge receipts; and this amount was transferred to the Registrar of Companies as required under Section 555(3) of the Act read with Rule 335 of the Company (Court) Rules, 1959.

6. The Official Liquidator contends that as on date Rs.3,58,839/- is available to the credit of the Company in Liquidation, which can be utilized for declaring a second dividend to the unsecured creditors, whose claims were admitted to proof. Considering the available funds he suggests that a dividend @ 34 paise in a rupee be allowed to be declared as dividend which works out to Rs.3,52,279/-.

7. Having regard to the above submissions of the Official Liquidator, this Court permits the Official Liquidator to (i) declare a second dividend @ 34 paise in a rupee to the unsecured creditors of the Company in Liquidation, whose claims were adjudicated by the Official Liquidator; and (ii) authorizes the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the dividend to the unsecured creditors out of the said account, in terms of Rule 290 of the Company (Court) Rules, 1959.

8. Since publication of notice of declaration of dividend in newspaper is expensive, the same is dispensed with, but the Official Liquidator shall send individual notices of dividend in Form No.138 and also fix schedule for making payment. He is also directed to pay dividend due to any deceased creditors to their legal heirs upon production of appropriate proof in that regard instead of a succession certificate, and also upon furnishing personal indemnity, in terms of Rule 280 of the Company (Court) Rules, 1959. He is also permitted to incur incidental charges from and out of the available funds of the Company in Liquidation and costs of this application shall be met out of the funds of the Company in Liquidation.

9. This application is allowed as above.

M.S.RAMACHANDRA RAO, J

07th September, 2017.
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