

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 582 OF 2017

IN

COMPANY PETITION No. 154 OF 2000

ORDER:

This Application has been taken out by the Official Liquidator under Sections 457(1) (e) and 460 of the Companies Act, 1956 (for short, 'the Act') read with Rules 9, 275, 276 and 278 of the Companies (Court) Rules, 1959 seeking to:

- i. sanction the declaration of second dividend @ 16% in a Rupee to the unsecured creditors of the company whose claims were adjudicated by the Official Liquidator as per Annexure-B;
- ii. authorize the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the dividend to unsecured creditors out of the said account in terms of Rule 290 of the Companies (Court) Rules, 1959;
- iii. dispense with the publication of notice of declaration of dividend in newspapers;
- iv. authorize the Official Liquidator to send individual notices of dividend in Form No. 138;
- v. authorize the Official Liquidator to fix the schedule for making payment;
- vi. authorize the Official Liquidator to pay the dividend due to any deceased creditor to his legal heirs upon production of such legal heirs, a family member certificate of such other certificate instead of producing a succession certificate and also upon furnishing personal indemnity in terms of Rule 280 of the Companies (Court) Rules, 1959;
- vii. permit the Official Liquidator to incur incidental charges from and out of the available funds of the Company (in liqn.)
- viii. order that the costs of this Application do come out of the funds of the Company (in liqn.)

By order dated 27.02.2001, this Court directed winding up of M/s Kode Chit Fund (P) Limited, company in liquidation and appointed the Official Liquidator attached to this Court as its liquidator.

In the affidavit filed in support of the Judge's Summons, it has been stated that the Official Liquidator had filed certificate in Form No. 71 which was taken as varied on record by this Court *vide* order dated 20.07.2010 made in Company Application No. 56 of 2010. A dividend @ 100% was declared to 14 creditors, whose claims were admitted as preferential debt and a dividend @ 32% was declared to 535 creditors, whose claims were admitted as unsecured debt. Payment of the declared dividend was made to all the creditors, who have submitted their discharged receipts i.e. Form No. 138 and the unpaid dividend amount of Rs.1,02,482.58 paise in respect of 17 claimants, who did not submit their discharge receipts i.e. Form No. 138, was transferred to the Registrar of Companies, Hyderabad. As on today, a sum of Rs.41,80,434/- is available to the credit of the company in liquidation which can be utilized for declaring second dividend to the unsecured creditors whose claims were admitted to proof and in respect of whom as required under the Rules Form No. 71 was filed, as stated supra. Considering the availability of funds, the Official Liquidator seeks this Court to declare a dividend @ 16% in a rupee which would work out to Rs.40,52,035/-. As required under Rule 275 of the Companies (Court) Rules, 1959, publication of declared dividend has to be affected in two newspapers, but however, considering the cost involved in making publication and keeping in view that notices would be sent to the individual creditors, publication of notice may be dispensed with.

In as much as there is compliance with the Rules specified under the Companies (Court) Rules, 1959, this Company Application is allowed.

06th July 2017

ksld

CHALLA KODANDA RAM, J

