THE HONOURABLE SRI JUSTICE RAJA ELANGO

COMPANY APPLICATION No.4 OF 2017
IN
COMPANY APPLICATION Nos.1157 & 1158 OF 2016
IN
R.C.C.No.22 OF 2000

ORDER:

This Company Application is filed by the applicant under Section 460(4) of the Companies Act, 1956 read with Rules 9, 168 and 290 of the Companies (Court) Rules, 1959 praying to (i) permit the Official Liquidator to vary the list of creditors of the company submitted before this Court in Form No.71 (annexed as Annexure – "C") of the Companies (Court) Rules and replace the amount admitted as Rs.9,59,800/- at Sl.No.93 of M/s.Sangam Solvent Extracts Limited, (ii) permit the Official Liquidator to transfer a sum of Rs.1,84,269.53 ps. to the dividend account for making payment of the deficit amount, (iii) authorise the Official Liquidator to take all necessary actions and steps which are incidental for payment of dividend and to effectively implement the orders of this Court in that regard and (iv) order that the costs of this application do come out of the estate of the company in liquidation.

2. The affidavit filed by the Official Liquidator discloses the following facts:

By an order, dated 9.7.2001, in R.C.C.No.22 of 2000, this Court ordered winding up of M/s.Tungabhadra Industries Limited and appointed an Official Liquidator as its Liquidator. The Official Liquidator filed two applications i.e., Company Application Nos.1157 and 1158 of 2016 for taking Form No.71 in respect of creditors as varied and also to declare a dividend @ 100% to individual workmen and preferential creditors and to declare a dividend @ 61.20% to unsecured creditors of the company in liquidation. By an order, dated 8.9.2016, both the applications were ordered. In view of the said order, payment of dividend to the eligible creditors has been scheduled from 7.10.2016 to 6.4.2017 and the same is under process. The office of the Official Liquidator received letters on 1.12.2016 and 22.12.2016 from M/s.Sangam Solvents Extracts Limited wherein the Director of the said company has requested to release the balance eligible dividend amount, which was paid deficit. On receipt of the said letters, it has been verified from the records and found that the admitted amount of M/s.Sangam Solvents Extracts Limited has been wrongly taken as Rs.6,58,706/- instead of Rs.9,59,800/- in Form No.71 filed in C.A.No.1157 of 2016 due to which, the dividend @ 61.20% payable has also been wrongly calculated and it has been paid dividend declared on Rs.6,58,706/- instead of Rs.9,59,800/-, which is the fully admitted claim. In view of this error, the claimant has been paid a sum of Rs.4,03,128.07 ps. instead of Rs.5,87,397.60 ps. which was its entitlement. At present, an amount of Rs.25,43,505/- is lying to the credit of the company in liquidation and hence, the Official Liquidator may be permitted to pay the balance dividend of Rs.1,84,269.53 ps. to M/s.Sangam Solvent Extracts Limited on par with other unsecured creditors.

3. Heard and perused the material available on record.

4. Admittedly, from the material available on record, it is evident that the dividend has to be declared on Rs.9,59,800/- and

not on Rs.6,58,706/-. Hence, necessarily, the prayer of the petitioner has to be considered favourably and the company application has to be allowed.

5. Accordingly, this Company Application is allowed. There shall be no order as to costs.

JUSTICE RAJA ELANGO

24.1.2017
AMD

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Date: 24.1.2017

AMD