THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

COMPA.No.853 of 2017
in
R.C.C No.5 of 1993

ORDER:

This Company Application is filed for an order to:

i) form an opinion that the liquidator cannot proceed with the winding up and that it is just and reasonable in the circumstances of the case to order for the dissolution of the company.

ii) take the Half Yearly Accounts for the periods from 01.04.2016 to 30.09.2016, 01.10.2016 to 31.03.2017 and 01.04.2017 to 11.09.2017 along with the Audit Report on record.

iii) dispense with the filing of the final accounts of the company in view of the filing of the audited Half Yearly Accounts of the company in liquidation regularly.

iv) permit the Official Liquidator to transfer the balance amount to the Company's Liquidation Account after deducting liquidation/ incidental expenses, Auditor's fee etc.,

v) order that M/s.A.P. Scooters Limited be dissolved with effect from the date of the order.

vi) permit the Official Liquidator to dispose of/ destroy the books of accounts and records of the company any day after expiry of five years from the date of order of the dissolution of the company;

In support of the application, it is stated that by an order dated 18.08.1994 passed in R.C.C. No.5 of 1993, this Court was pleased to appoint Official Liquidator attached to this Court as the Liquidator of M/s.A.P.Scooters Ltd., in liquidation, in terms of Section 449 of the Companies Act, 1956. Consequent to the winding up order, the Official Liquidator has issued notices to the ex-directors under Sections 454 and 456 of the Companies Act, 1956 to submit the Statement of affairs and to handover the assets and books and records of the company in liquidation. Subsequently, the ex-directors filed the statement of affairs on 30.10.2010.

Pursuant to the order dated 15.10.2014 passed by the Debt Recovery Tribunal II, Mumbai, the possession of the assets of the company comprising Land & Buildings and Plant & Machinery and other assets situated Sy.Nos.13, 21, 411 at Patancheru, Medak District was handed over by the Court Receiver, Mumbai to the Official Liquidator on 24.01.2006 and the same were sold by the Official Liquidator with due permission of this Court. The said sale was accepted in favour of M/s.Bipasha Relators Pvt. Ltd., by this Court vide order dated 16.11.2006 made in C.A. No.1444 of 2006. In pursuance of the order of this Court dated 10.12.1998 made in C.A. No.422 of 1998, the Official Liquidator had invited claims through publication of notice from the creditors of the company and fixed the last date for receipt of claims as 09.04.1999. In response to the publication, 42 claims have been received from 5 secured creditors, EPFO and workmen and union (which includes 22 individual worker claims already in union list) and 13 claims are pending from preferential and unsecured creditors.

The Official Liquidator had filed an application for taking on record the Form No.71 in respect of secured creditors and workmen of the company and the same was taken on record on 26.12.2008 in CA No.1664 and 1671 of 2008 while permitting the Official Liquidator to declare and disburse the 1st dividend to eligible secured creditors and workmen @ 100% of their admitted secured debt along with interest @ 4% p.a. for 7 years taking note of the availability of funds of the company. Thereafter, 3 individual workmen claims were also received, adjudicated and their 1st dividend amount was paid as was done earlier to other workmen of the company vide orders dated 23.08.2010 in CA. No.658 of 2010 and 659 of 2010.

By an order dated 24.12.2010 passed in C.A. No.1535 of 2010, this Court was pleased to direct the Official Liquidator to declare 2nd dividend to secured creditors and workmen towards interest @4% p.a. for one year and the same was paid accordingly. Thereafter, the claim of PF organisation was adjudicated by issuing necessary Form No.70 dated 20.07.2011 admitting an amount of Rs.11,10,374/- as secured and Rs.2,79,526/- as unsecured debt. Subsequently, Official Liquidator had field another application for varying the Form No.71 and also for declaring dividend @100% to EPFO towards their admitted secured debt. The said CA Nos.963 and 964 of 2011 were ordered by this Court vide order dated 24.08.2011 and payment was also effected to EPFO, Patancheru. The details of disbursement of dividend as per the various orders of the Hon'ble High Court and the details are as follows:

Sl. No.	Name of the creditor	Amt. Admitted as secured debt (Rs)	Amount paid as 1st interim in Mar' 2007	Amount paid as 2nd interim in Sep' 2008	1st dividend paid (CA 1664 & 1671/08 dt.26.12.2008	2nd dividend paid (CA 1535/10 dt.24.12.2010
1	IDBI	10,34,92,424.00	3,00,00,000.00	4,61,15,800.00	5,63,54,476.33	41,39,693.19
2	IFCI	5,52,53,749.00	1,56,68,000.00	2,47,01,560.00	3,03,55,210.61	22,10,145.94
3	ICICI (SCB)	7,31,14,201.93	1,04,81,856.00	4,30,32,784.00	4,00,71,610.61	29,24,578.30
4	SBH	84,89,303.10	55,00,000.00	--	53,66,204.45	3,39,557.34
5	IOB	74,59,077.00	45,00,000.00	--	50,47,677.75	2,98,371.54
6	Workmen	2,58,80,506.87	--	--	3,31,27,074.42	10,35,223.95
7	3individual Workmen	1,76,986.22	--	--	2,26,542-36	7,079.46
8	EPF Organisation	11,10,374.00	--	--	--	11,10,374.00

That, Half-Yearly Accounts as required under Section 462 of the Companies Act, 1956 have been filed upto 1.10.2015 to 31.03.2016 which has also been audited and Auditor's Report has also been filed in C.A. No.785 of 2017 with this Court. The said Company Application is yet to be ordered. Subsequent periods 01.04.2016 to 30.09.2016, 01.10.2016 to 31.03.2017 and 1.04.2017 to 11.09.2017 have been prepared and filed herewith duly audited. The Official Liquidator submits that in view of the fact that the Half Yearly Accounts of the company in liquidation have been filed regularly duly audited therefore, this Court may be pleased to dispense with the filing of the Final Accounts of the company in liquidation.

It is stated that as per the available records, as on date the funds available with Official Liquidator is only Rs.88,625.49ps. Since the amount is not sufficient to pay the secured/ unsecured creditors of the company and as there are no assets available put for sale and no cases are pending in any Courts and no further affairs can be pursued by the Official Liquidator, it would more appropriate to dissolve the company.

Heard learned counsel for Official Liquidator.

In view of the facts and circumstances of the case, the company application is allowed by dissolving the company with the following directions:

a) the Half Yearly Accounts for the period from 01.04.2016 to 30.09.2016, 01.10.2016 to 31.03.2017 and 01.04.2017 to 11.09.2017 along with Audit Reports is taken on record.

b) To dispense with the filing of the final accounts of the company in liquidation.

c) Official Liquidator is permitted to transfer the balance amount to the account of Company in liquidation after deducting liquidation/ incidental expenses, Auditor's fee etc.,

d) And also permitted to dispose of/ destroy the books of accounts and records of the company any day after expiry of 5 years form the date of order of the dissolution of the company.

A.RAJASHEKER REDDY, J

13.12.2017
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