THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

COMPA.No.938 of 2017
In
Company Petition No.64 of 1997

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 on record 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 18.09.2017 along with Audit Reports.

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

iv) that M/s.Krishi Foundary Ltd., be dissolved with effect from the date of the order.

v) Permit the Official Liquidator to reimburse Rs.10,000/- to Krishi Foundry Employees Union, who had remitted the same towards initial expenses;

vi) permit the Official Liquidator to transfer the balance amount to the company's Liquidation Account, after deducting the Liquidation/incidental expenses, Auditor's fee and etc.,

vii) 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;

The affidavit filed in support of the application, it is stated that M/s.Krishi Foundry Limited in liquidation, a company incorporated under the Companies Act, 1956, was ordered to be wound up under the orders of this Court vide order dated 09.11.1998 made in C.P. No.64 of 1997. By an order dated 16.10.2000 passed in C.P. No.64/1997, this Court was pleased to direct the winding up of M/s.Krishi Foundry Limited and appointed the Official Liquidator. Consequent to the winding up order, the Official Liquidator issued notices to the ex-directors of the company under Sections 454 and 456 of the Companies Act, 1956 to submit the statement of affairs and handover the possession of the assets of the company. However, the said notices were served to two of them and another was returned with postal endorsement as "no such named person in the house.' The efforts taken to trace the ex-director turned futile.

It is stated that the office of the Official Liqudiator had taken possession of the movables at company's premises situated at B31 & B32, IE, Sanathnagar, Hyderabad on 24.03.1999. The said assets were sold for Rs.3,15,000/- with due permission of this Court vide order dated 05.09.2003 in C.A. No.485 of 2003. The said sale was confirmed by this Court vide order dated 17.10.2003 in favour of M/s.Hariyana Steel Centre, Hyderabad. Thereafter, the successful bidder had paid the sale consideration with this office and upon receipt of the sale consideration, the movables were handed over to the petitioner.

As per the directions of this Court vide order dated 03.07.2009 made in C.A. No.753 of 2009, the Official Liquidator has sent individual notices to 69 workmen for final dividend. The dividend for an amount of Rs.2,35,000/- was disbursed to 47 workmen. The remaining unclaimed dividend amount payable to 22 workmen has been transferred to Registrar of Companies at Hyderabad as required under Section 555 of the Companies Act, 1956 on 16.11.2017.

Considering the fact the winding up order was passed in the year 1998 and more than 19 years have passed since then and as the amount was paid by way of dividend by the Official Liquidator to the workmen, appears that no further affairs need be pursued by the Official Liquidator and therefore, it would be more appropriate to dissolve the company. As on date the funds available with Official Liquidator is only Rs.36,748/- and since the amount is not sufficient to pay to the creditors of the company, the said amount may be allowed to be deposited in the Company Liquidation Account as required under Section 555 (1) of the Companies Act, 1956 read with Rule 283 of the Companies (Court) Rules 1959. It is further stated that there are no assets available in the name of the company to be realised and no cases are pending against the company in liquidation as per the available records.

Heard learned counsel for the Official Liquidator.

In view of the facts and circumstances of the case, this 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 18.09.2017 along with Audit Reports are taken on record.

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

c) Permission is granted for reimbursement of a sum of Rs.10,000/- to the respondent herein, for winding up, who had remitted the liquidation expenses.

d) Permission is granted for transferring the balance amount to the company's liquidation account, after deducting the liquidation/ incidental expenses, Auditor's fee etc.,

e) Permission is granted to dispose of/ destroy the books of accounts and records of the company any day after expiry of 5 (five) years from the date of order of the dissolution of the company.

A.RAJASHEKER REDDY, J

13.12.2017
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