THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

COMPA.Nos.918 & 919 of 2017
in
Company Petition No.56 of 2012

O R D E R :

Company Application No.918 of 2017 is filed for an order to-

i. take the certificate in Form No.71 filed as Annexure-A in respect of M/s.MDL Technologies India (P) Limited in liquidation relating to the claims of Preferential/unsecured creditors with the memorandum of admission/rejection of the claims on record.

ii. direct the Registrar to notify the said Form No.71 in the notice board of this Hon'ble Court in terms of Rule 169 of the Companies (Court) Rules, 1959.

iii. order that the costs of this application do come out of the assets of the Company (in Liqn.)

2. Company Application No.919 of 2017 is filed for an order to-

i. declare a dividend @ 100% in a rupee to 4 preferential/unsecured creditors of the company on admitted amount in respect of realization of (VSEZ) assets of the company in liquidation to a sum of Rs.19,12,871/- as detailed in the statement marked as Annexure-B.

ii. permit the Official Liquidator to open a separate dividend account in Punjab National Bank and to pay the dividend to entitled 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 dividend in newspapers due to reasons stated in para 8.

iv. permit the Official Liquidator to send notices of dividend in Form No.138 along with receipts.

v. permit the Official Liquidator to fix the schedule for making payment.

vi. permit the Official Liquidator to transfer the un-paid dividend, if any, remaining in the dividend account, after the expiry of the 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956.

vii. permit the Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of dividend and to effectively implement the orders of this Hon'ble Court in that regard.

viii. order that the costs of this application do come out of the assets of the Company (In liqn.).

3. This Court, by Order dated 11.12.2012 in Company Petition No.56 of 2012, directed the winding up of the applicant company and appointed the Official Liquidator as its Liquidator. The assets of the company in liquidation were seized by the Development Commissioner, Office of the Development Commissioner, Ministry of Commerce and Industry, Visakhapatnam Special Economic Zone (VSEZ), Duvvada, Visakhapatnam, under Section 51 of the Special Economic Zones Act, 2005 as well as Rule 77 (4) of the Special Economic Zone Rules, 2006 and the same were sold and after adjusting the sale proceeds, an amount of Rs.41,64,470/- was deposited with the applicant office. Since the said amount was available to the credit of the company in liquidation, the Official Liquidator filed Company Application No.478 of 2017, seeking permission of this Court to invite claims from the creditors and the same was allowed by order dated 20.04.2017 and as such, claims were invited by making publications in news papers and four claims were received for recovery of dues, amounting to a sum of Rs.11,59,31,669/- and the Official Liquidator issued Notice in Form No.68 to all the claimants and after investigation, issued necessary orders, admitting/rejecting the proof of Debt in Form No.69/70 to the unsecured creditors.

4. In the affidavit, the Official Liquidator submits that as per Rule 167 of the Companies (Court) Rules, 1959, the Official Liquidator shall file a certificate in Form No.71, together with proof of claim and the memorandum of admission/rejection of claim within three months from the date fixed for submission of proofs and as per Rule 169, upon the

filing of the Certificate in form No.71, the Registrar shall notify the filing thereof on the notice board, along with the certificate and the list of creditors as settled thereto and hence, requested this Court to take the enclosed Form No.71 on record, pertaining to the claims of unsecured creditors and direct the Registry of this Court to display the same on the Notice Board.

5. The Official Liquidator submitted that under Rule 167 of the Companies (Court) Rules, 1959, the said certificate in Form No.71 should have been filed before this Court within three months from the date fixed for submission of the proofs, but in this case, 25.08.2017 was fixed as the last date for filing claims with the Official Liquidator and that the said certificate should have been filed before this Court on or before 24.11.2017, but is being filed along with this Company application as Form No.71 enclosed as Annexure-A.

6. The Official Liquidator further submitted that as on 06.11.2017, a sum of Rs.42,85,289/- is available to the credit of the company, which can be utilized for the purpose of declaring and making payment of dividend to unsecured creditors of the company in liquidation and that the total amount of claim admitted of unsecured creditors is Rs.19,12,871/- and as such, dividend @ 100 paise in a rupee can be declared and disbursed to preferential/unsecured creditors of the company in liquidation and the balance amount will be paid only after adjudication of income tax or other creditors if any claims are adjudicated against the company and that the details of the amounts proposed as dividend along with working sheet, is enclosed as Annexure-B. It is further submitted that the preferential/unsecured creditors had filed their individual claims and their claims were adjudicated issuing respective form No.69/70 and therefore, the Official Liquidator may be permitted to issue individual

notice of dividend in Form No.138, along with receipt in the name of 4 preferential/unsecured creditors of the company in liquidation and in view of the same, the publication of notice of dividend in newspapers as required under Rule 276, may be dispensed with.

7. The Official Liquidator further submitted that as per Rule 290 of the Companies (Court) Rules, 1959, a separate dividend account in Punjab National Bank has to be opened and dividend amount has to be paid to the respective creditors out of the said account, which shall be paid through ECS mode and the said dividend account shall be in operation for six months as per the schedule, for making payment of dividend amount.

8. In view of the facts and circumstances stated and the documents filed, this Court is satisfied that the application needs to be allowed.

9. In view of the same, both the Company Applications are allowed.

(A.RAJASHEKER REDDY, J)

06.12.2017
msb