HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No.598 OF 2018
IN
COMPANY PETITION No.18 of 1993 & R.C.C. No.7 of 1996

ORDER:

This Company Application is filed under Sections 457(1)(e) and 460(4) of the Companies Act,1956 read with Rule 168, 275, 276 & 290 of the Companies (Court) Rules, 1959.

The Official Liquidator prays for the following relief:

"(i) Permit the Official Liquidator to vary the list of creditors of M/s. Universal Ceramics Ltd., (In Liqn.) by adding the name of M/s. Kotak Mahindra Bank Ltd., in the place of ICICI Bank Ltd., and take the varied Form No.71 filed as Annexure-"C" on record;

(ii) Permit the Official Liquidator to declare further dividend @ 0.5146656% and also permit him to disburse the dividend of Rs.2,30,000/- to the entitled creditors from and out of the available funds of the company (In Liqn.) as per Annexure-"D";

(iii) Authorise the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the dividend to the creditors out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959;

(iv) Permit the Official Liquidator to dispense with the publication of notice of dividend in newspapers;

(v) Permit the Official Liquidator to send notice of dividend in Form No.138 along with Receipt to the proposed creditors;

(vi) Authorize the Official Liquidator to fix the schedule for making payment and permit him to take necessary steps for disbursement of proposed dividend; and

(vii) Order that the costs of this application do come out of the Estate of the Company (In Liqn.);

Heard the learned counsel for the Official Liquidator.

It is stated in the affidavit filed in support of this application that by an Order, dated 08.08.1996, made in C.P.No.18 of 1993 and R.C.C.No.7 of 1996, this Court had ordered winding up of M/s. Universal Ceramics Ltd., and appointed the Official Liquidator as its Liquidator and he had taken possession of all the available assets including land & buildings and plant & machinery of the company as per the directions of this Court. It is stated that he sold the assets of the company in liquidation and realised an amount of Rs.80.50 lakhs and as per the orders of this Court, dated 10.08.2017, passed in C.A.No.685 of 2017, the Official Liquidator had declared divided @ 17.1182256% to the Secured Creditors and workmen against their admitted secured debt and disbursed the same to them, who submitted the requisite forms, and transferred the unclaimed dividend to the account of the Company in liquidation. It is further stated that as per records of the Company in Liquidation, IDBI, IFCI Ltd., SBI and ICICI are the secured creditors of the Company, however, as per the orders of this Court, dated 02.07.2018, passed in C.A.No.375 of 2018, M/s. Kotak Mahindra Bank Ltd., was substituted in place of ICICI Bank Ltd., and paid the balance divided declared in the name of ICICI Bank to M/s. Kotak Mahindra Bank Ltd., and accordingly filed a varied list of creditors vide Form No.71 (Annexure-C). Further, it is submitted that as per the orders of this Court, dated 10.08.2017, made in C.A.No.685 of 2017, the Official Liquidator was permitted to reimburse the priority expenses viz., Rs.2,68,419.25 ps., to ICICIC, Begumpet, Hyderabad and Rs.2,69,419.25 to SBI, Nachayaram Branch, Hyderabad, but they have not submitted the required details for transfer of priority expenses to their accounts, hence an amount of Rs.5,37,838.50 is to be reimbursed to ICICI & SBI. As on date, an amount of Rs.7,72,143.34 ps., is available to the credit of the Company in liquidation and after retaining a sum of Rs.5,42,143.34 ps., for meeting the reimbursement of priority expenses, Central Government fee, audit fee & liquidation expenses, an amount of Rs.2,30,000/- is available for declaring further dividend @ 0.5146656% agaisnt the admitted secured debt to the three secured creditors viz., IDBI, Kotak Mahindra Bank Ltd., and IFCI Ltd., and 112 workmen of the Company in liquidation. Therefore, the Official Liquidator sought permission of this court to declare divided to the secured creditors viz., IDBI, M/s. Kotak Mahindra Ban Ltd., IFCI and Workmen of the Company in liquidation and to dispense the publication of notice in newspapers and also sought a permission to open a separate Dividend Account to declare and disburse the dividend to the entitled creditors of the company in liquidation.

Permission is accorded to the Official Liquidator, since the amounts sought to be reimbursed are not disputed by the said secured creditors. Further, since the ICICI Bank Ltd., was substituted with M/s. Kotak Mahindra Bank Ltd., permission is accorded to the Official Liquidator under Rule 168 of the Company (Court) Rules, 1959 to vary the list of creditors and the enclosed list of creditors vide Form No.71 (Annexure-D) is taken on record. The Official Liquidator is also permitted to disburse the dividend of Rs.2,30,000/- i.e., after deducting an amount of Rs.5,42,413.34 ps., from the amount of Rs.7,72,143.34 ps., which is available with the Company in liquidation, to the entitled creditors, at the rate of 0.5146656%, as detailed in Annexure-D and to carry out this action, this Court authorises the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the dividend to the creditors of the Company in Liquidation in terms of Rule 290 of the Companies (Court) Rules, 1959. Further, the Official Liquidator is authorised to send individual notices of dividend in Form No.138 of the Companies (Court) Rules, 1959, to the three secured creditors and the workmen of the company in liquidation, by dispensing the publication of Dividend Notice in Newspapers, as it involves huge expenditure, and further authorised to take all necessary action and steps, which are incidental for declaration and payment of dividend and to effectively implement the orders of this Court.

This Company application is ordered accordingly.

CHALLA KODANDA RAM, J

Date:26.10.2018.

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