IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **22.03.2019**

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

Comp.A.No.56 of 2019
in
C.P.No.252 of 2001
and
C.P.No.252 of 2001

The Official Liquidator,
High Court, Madras
as the Provisional Liquidator of
M/s.Sangam Aluminium Lited,
(In Liquidation).
Corporate Bhawan, IInd Floor,
29, Rajaji Salai,
Chennai – 600 001. .. Applicant

This application is preferred, under Section 481 of the Companies Act, 1956 Read with Rules 9,11(b) of the Companies (Court) Rules, 1959, prays

a)To take this report on record.

b) To 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 finally and to pass consequent and appropriate orders.

c)To permit the Official Liquidator to file the final account without auditing with the audit of accounts, since there will be no transactions in the company's account.

d)To permit the Official Liquidator to pay a sum of Rs.5,00,000/- to the Commercial Tax Office and to transfer the balance amount to the undistributed assets of the company liquidation account as envisaged under Section 555 of the Act and after adjusting all the incidental expenses in the liquidation proceedings of the company in liquidation including the present application and

e) To pass such other order/orders that this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Applicant :Mr.Bavishetty Sridhar, Deputy Official Liquidator

ORDER

Read this in conjunction with and in continuation of earlier proceedings of this Court dated 15.03.2019, which reads as follows:

> *'Learned Deputy Official Liquidator submits that some interlocutory applications pertaining to misfeasance are pending and it is desirable to have those applications along with the instant application.*
>
> *Learned Deputy Official Liquidator undertakes to give the list of pending interlocutory applications and seeks a weeks' time.*
>
> *List on 22.03.2019.'*

2. Mr.Bavishetty Sridhar, learned Deputy Official Liquidator representing the 'Official Liquidator attached to this Court' ('OL' for brevity), who has taken out the instant application namely Company Application No.56 of 2019 is before this Court.

3. Learned Deputy OL submits that the files have been verified thoroughly and he also submits that no interlocutory applications pertaining to misfeasance are pending.

4. Saying so, learned Deputy OL requested this Court to take up the instant application being Company application No.56 of 2019, which is under Section 481 of 'The Companies Act, 1956' ('said Act' for brevity) for dissolution and dispose of the same.

5. The aforesaid application being Company Application No.56 of 2019 has been taken out by the OL (hereinafter 'OL' for brevity) *inter alia* under Section 481 of said Act with prayers to dissolve 'Sangam Aluminium Limited' (hereinafter 'said Company' for brevity) finally. To be noted, consequential, incidental and collateral orders have also been made by OL.

7. Along with this application, 'report of OL dated 30.01.2019' (hereinafter 'said report' for brevity) has been annexed. A perusal of said report of the OL reveals that OL was appointed as Provisional Liquidator for said company vide orders dated 04.07.2002 made in C.P.No.252 of 2001 by this Court, *inter alia* with a direction to take charge of the assets and effects of the company. To be noted, copy of the said order of this Court is also annexed to the report. Thereafter, the trajectory which the liquidation

proceedings qua said company took have been adumbrated and articulated in paragraph Nos. 3 to 9 of said report of OL, which read as follows:

'3. It is submitted that in pursuant to the direction of this Hon'ble Court the Official Liquidator had taken possession of the Registered office cum Factory Premises of the company situated at Kalukondapalli Village, Hosur, Thally Road, P.O.Belogondapally - 635 114 on 21.11.2002. Further as per the orders of the Hon'ble Court, the assets of the company in liquidation was valued and according to the orders dated 08.08.2005 made in C.A.No.1116 of 2004 in C.P.No.252 of 2001, the assets were sold for a sum of Rs.4,90,00,000/- in favour of M/s.Hindalco Industries Limited. The sale consideration was received within the stipulated time and the sale deed was executed in favour of nominee of the purchaser viz., M/s.Hywell Forgoing Private Limited. Further the free hold land measuring to an extent of 2309 sq.ft pertaining to the company in liquidation was also purchased for Rs.7,15,790/- by the aforesaid purchaser in accordance with order dated 13.11.2013 made in C.A.No.311 of 2013 in C.P.No.252 of 2001. There are no further asset available for sale and realisation.

5.It is submitted that the Ex-Directors of the company have filed statement of Affairs on 01.11.2002. As per the statement of Affairs there were no trade debtors as such realization from the debtors and recovery of loan from others do not arise.

6.It is submitted that as per the order the Hon'ble Court, Madras dated 06.02.2006 made in C.A.No.1503 of 2005 claims from various creditors of the company in liquidation *were invited and in the same order the official liquidator was also permitted to disburse 50% of dividend to the secured creditors and Workmen creditors and by further orders dated 14.06.2006 respectively made in C.A.No.1503 and 1660 of 2005 directed the Official Liquidator to disburse the balance 50% of dividend to the secured creditors and workmen creditors. Accordingly the Official Liquidator has paid 100% of dividend to secured creditor and workmen creditors of the company in liquidation in compliance with the orders of Hon'ble High Court.*

7.It is also submitted that apart from the above claims, Commercial Taxes Department, Hosur(South) has also submitted a claim for a sum of Rs.4,81,04,145/- towards their tax arrears. The said government claim falls under Section 530 of the Companies Act, and in the present case since the secured creditors and the workmen creditors have been paid @ 100% dividend on their admitted amount, the claim of the Commercial Tax Department could be considered upon the availability of funds in the credit of the company in liquidation. The funds position of the company in liquidation as on 27.008.2018 is Rs.5,63,726/- and the Commercial Tax department can be paid to the extent of Rs.5,00,000/- (Rupees Five lakhs only).

8.It is submitted that the Misfeasance application filed in C.A.No.1790 of 2008 in C.P.No.252 of 2001 has been disposed by this Hon'ble Court vide order dated 12.02.2008.

9. It is submitted that since all the assets pertaining to the company in liquidation have been sold and no further realisation is possible and upon consideration of payment of claim to the Commercial Taxes Department to the *extent Rs.5,00,000/- no further action would be left for continuing the liquidation proceeding. It is submitted that no fruitful purpose would be served by allowing this company to continue to its existence rather it would be more appropriate to dissolve the company finally as envisaged under Section 481 of the Companies Act , 1956.'*

8. Apart from the aforesaid trajectory of the liquidation qua said company, final accounts statement has also been annexed to said report. A perusal of the final accounts statement annexed to said report reveals that there has been realisation to the tune of Rs. 5,17,54,386/- or in other words, little over Rs.5.17 crores. Disbursements are the tune of Rs.5,11,97,973.80/-. In other words, disbursements are little over Rs.5.11 crores. The balance is only Rs.5,56,412.20/-.

9. It is also submitted by learned Deputy OL Mr.Bavishetty Sridhar, who is before this Court that no assets of said company are now available. Therefore, it would be viable to have the dissolution prayer acceded to, is his further say.

10. It is pointed out by Deputy OL that a sum of Rs.5,00,000/- (Rupees Five Lakhs only) is liable to payable to Commercial Tax office being the tax liability of said company. Learned Deputy OL seeks permission to pay out the sum of Rs.5,00,000/- (Rupees Five Lakhs only) to Commercial

Tax Department from the available balance of Rs.5,56,412.20 and learned Deputy OL is permitted to do so.

11. After paying out aforesaid Rs.5,00,000/- to Commercial Tax Department and making all statutory deduction, remaining sum of money will be transferred as per Section 555 of said Act to the Undistributed Assets Account in the Reserve Bank of India. The prayer in the aforesaid application reads as follows:

> *'a) To take this report on record of the Hon'ble Court.*
>
> *b) To pass an order that it is just and reasonable to dissolve M/s.Jenkin & Jeffrey Edible Oil Private Limited (Under Liquidation) finally and accordingly to pass consequential and appropriate orders;*
>
> *c) To pass an order permitting the Official Liquidator to file the final account without auditing as nothing survive in the company in liquidation;*
>
> *d) permit the Official Liquidator to transfer the available amount as envisaged under Section 555 of the Act after meeting all the incidental expenses in the winding up process including the present application and*
>
> *e) To pass any such other orders that the Hon'ble Court deem fit and proper in the circumstances of the case.*

12. In the light of the narrative supra, the aforesaid prayer is acceded to and application is ordered as prayed for.

Consequently, OL is discharged and the main C.P.No.252 of 2001 will stand closed as the said company is dissolved.

22.03.2019

mp/kst

M.SUNDAR.J.,

mp/kst

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