IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **22.03.2019**

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

Comp.Application No. 61 of 2019 in
C.P.No.278 of 2010 and
C.P.No.278 of 2010

The Official Liquidator,
High Court, Madras
as the Liquidator of M/s.Complete Agro Biotech
Solutions Private Limited,
(In Provisional Liquidation) .. 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 of the Hon'ble Court.

b) To form an opinion that the Official Liquidator could not with the winding up of the company and to pass that it is just and reasonable to dissolve M/s. Complete Agro Biotech Solutions private Limited (Under Liquidation) finally as envisaged under Section 481 of the Companies Act, 1956 and accordingly to pass appropriate and consequential 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)To permit the Official Liquidator to incur the expenditure for the present application out of Common Pool Find Account.

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

WEB COPY
http://www.judis.nic.in

For Applicant :Mr.Bavishetty Sridhar, Deputy Official Liquidator

ORDER

The aforesaid application being Company Application No.61 of 2019 has been taken out by the 'Official Liquidator attached to this Court' (hereinafter 'OL' for brevity) *inter alia* under Section 481 of 'The Companies Act, 1956' ('said Act' for brevity) with prayers to dissolve 'Complete Agro Biotech Solutions Private Limited' (hereinafter 'said Company' for brevity) finally with incidental, ancillary and collateral prayers.

2. Along with this application, 'report of OL dated 06.01.2019' (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 18.06.2014 made in C.P.No.278 of 2010 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 said report. The trajectory which the liquidation proceedings qua said company took thereafter have been adumbrated and articulated in paragraph Nos. 3 to 7 of said report of OL, which read as follows:

'3. It is submitted that the Official Liquidator, in compliance with the directions given by the Hon'ble Court

http://www.judis.nic.in

vide the order mentioned supra, deputed his officials for taking possession of the assets at the registered office premises situated at New No.2, Old No.7, Indaraniammal Street, Mylapore, Chennai-600 004. however it was informed to the Official Liquidator by one Mr.B.Selvaraj who was the Manager (Admin) of the company informed that all the assets of the aforesaid company (in provisional liquidation) were taken possession by State Bank of India, SAM Branch, Egmore, Chennai- 600 008 and sold out under SARFAESI Act towards their dues. In view of the above, the Official Liquidator could not take any assets of the company under liquidation into his custody.

4.It is submitted that the ex-directors of the company had not filed the Statement of Affairs as required under Section 454 of the Companies Act, 1956 and also not handed over the books and records of the Company in Provisional Liquidation.

5.It is submitted that due to non-availability of the particulars of the debtors of the company in liquidation, the Official Liquidator could not file any application under Section 446 of the Act for recovery of amount due to the company and as on date no such application is pending for disposal before the Hon'ble High Court.

6.It is also submitted that the Official Liquidator has not file misfeasance application under Section 542 and 543 of the Act and as on date no such application is pending for disposal before the Hon'ble High Court.

7.It is submitted that the Official Liquidator has not called for any claims from the creditors of the company in liquidation as no particulars of assets and books and account

WEB COPY

http://www.judis.nic.in

were furnished by the Ex-Directors and he has also not received any voluntary claims from the creditors and as on date no such claim is pending for adjudication and settlement;.'

3. Apart from the aforesaid trajectory of the liquidation proceedings 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 is no balance to be transferred to the public account under Section 555 of said Act.

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

5. The prayer in the aforesaid application reads as follows:

'a) To take this report on record of the Hon'ble Court.

b) To form an opinion that the Official Liquidator could not with the winding up of the company and to pass that it is just and reasonable to dissolve M/s.Complete Agro Biotech Solutions Private Limited (under Liquidation) finally as envisaged under Section 481 of the Companies Act, 1956 and accordingly to pass appropriate and consequential orders.

WEB COPY

http://www.judis.nic.in

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) To permit the Official Liquidator to incur the expenditure for the present application out of Common Pool Find Account.

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

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

Consequently, OL is discharged and the main C.P.No.278 of 2010 will stand closed as the said company is dissolved.

22.03.2019

gpa/mp

WEB COPY

M.SUNDAR.J.,

gpa/mp

Comp.Application No. 61 of 2019 in
C.P.No.278 of 2010 and
C.P.No.278 of 2010

WEB COPY

22.03.2019

http://www.judis.nic.in