

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Comp.A.Nos.400, 401 of 2019
in C.P.No.192 of 1998

V.Subramanian

... Applicant in both Applications

vs.

1.The Official Liquidator,
High Court, Madras,
Liquidator of Ujwallaa Foundations Ltd.,
(In Liquidation).

2.Hariharan Iyer

3.B.P.Shimpi

... Respondents in both Applications

PRAYER in Comp.A.No.400 of 2019: These applications filed under Order XIV Rule 8 of the Madras High Court Original Side Rules r/w Rule 116 of Companies (Court) Rules, 1959, pleaded to permanently stay the winding up order dated 17.09.2003, passed by this Hon'ble Court in Company Petition No.192 of 1998 for winding up of the company by name Ujwallaa Foundations Ltd.,

PRAYER in Comp.A.No.401 of 2019: These applications filed under Order XIV Rule 8 of the Madras High Court Original Side Rules r/w Rule 116 of Companies (Court) Rules, 1959, pleaded to Recall the winding up order dated 17.09.2003,

passed by this Hon'ble Court in Company Petition No.192 of 1998 for winding up of the company by name Ujwallaa Foundations Ltd.,

For Applicant : Mr.R.Sankaranarayanan, Senior Counsel
for M/s.Arun Karthik Mohan and
Mr.Suhrith Parthasarathy
in both Company Applications

For Respondents : Mr.Bavisetty Sridhar for R1
Mr.R.Venkataraman for R2 and R3
in both Company Applications

COMMON ORDER

These applications are filed to permanently stay the winding up order dated 17.09.2003 in C.P.No.192 of 1998 and to recall the order of winding up dated 17.09.2003 in C.P.No.192 of 1998.

2.I heard the learned counsel for the applicant and the learned counsel for the petitioning creditor and the Deputy Official Liquidator.

3.The learned counsel for the applicant submits that the dues of the petitioning creditor have been settled by handing over a Demand Draft bearing D.D.No.041563 dated 14.11.2019 and drawn by Axis Bank, Adyar, Chennai for a

sum of Rs.2,00,000/- (Rupees Two Lakhs only). Similarly he submits that the Official Liquidator had quantified the total expenses incurred on the company in liquidation in a sum of Rs.38,384.30/- and that a Demand Draft for a sum of Rs.39,000/- drawn by Axis Bank bearing D.D.No.041567 dated 14.11.2019 has been issued to the Official Liquidator. Therefore, he submits that these applications are liable to be allowed. He further submits that if these applications are allowed any claims made against the company in liquidation would be dealt with by the applicant.

4.The Deputy Official Liquidator submits that there are no funds to the credit of the company in liquidation and that the total expenses incurred by the Official Liquidator in respect of the company in liquidation is an aggregate sum of Rs.38,384.30/- as set out in paragraph 12 of the report dated 07.11.2019.

5.The learned counsel for the petitioning creditor also submits that he has received the sum of Rs.2,00,000/- (Rupees Two Lakhs only) in full and final settlement by way of Demand Draft and that the petitioning creditor has no further claims against the company in liquidation.

6. Upon considering the aforesaid submissions and examining the relevant pleadings and documents, it is evident that the total expenses that were incurred by the Official Liquidator in respect of the company in liquidation have been reimbursed. Similarly, the dues of the petitioning creditor have also been discharged. The Official Liquidator submits that 3 claims were received from creditors for a total sum of Rs.9,08,73,966/- (Rupees Nine Crores Eight Lakhs Seventy Three Thousand Nine Hundred and Sixty Six only) as per details set out in paragraph 9 of the report of the Official Liquidator. Consequently, he submits that these claims should be settled by the applicant without recourse to the Official Liquidator. In this regard, the learned counsel for the applicant submits that the claim of Ind Housing Limited has already been settled by the applicant and that the applicant would also deal with the claims of M/s.Lakshmi Trade Credits Limited and the Deputy Commercial Tax officer, if the present applications are allowed.

7. Upon consideration of the above submissions, I am of the view that neither Commercial Morality nor Public interest would be affected if these applications are allowed. Accordingly, the following directions are issued:

- i) The Order dated 17.09.2003 for winding up Ujwallaa Foundations Limited is hereby permanently stayed.

- ii) Consequently, the Official Liquidator is discharged.
- iii) All claims made against the company in liquidation shall be the responsibility of the applicant and the Official Liquidator is absolved of all liability in this regard. The applicant is directed to indemnify and keep the Official Liquidator indemnified in respect of all claims, without limit, against the company.
- iv) Both these applications are disposed of on the above terms.

15.11.2019

Index : Yes / No
Internet : Yes / No
rna



WEB COPY

Comp.A.Nos.400, 401 of 2019

SENTHILKUMAR RAMAMOORTHY, J

rna



Comp.A.Nos.400, 401 of 2019
in C.P.No.192 of 1998

15.11.2019

WEB COPY