

Comp.A.No.408 of 2019
in
C.P.No.274 of 2004

SENTHILKUMAR RAMAMOORTHY,J.

This application is filed for permission to declare and disburse dividend at 30 paise in a rupee to one secured creditor of the company in liquidation and for ancillary orders in this regard.

2.I heard the Deputy Official Liquidator. The Deputy Official Liquidator submitted that the aggregate sum of Rs.1,42,95,109.30 is available to the credit of the company in liquidation as on 13.10.2019. He further submitted that two claims were received by the Official Liquidator. One claim is from the secured creditor, namely, ARCIL with a first charge and the second claim is from the Commercial Tax Department. In view of the availability of only a sum of Rs.1,42,95,109.30, he submitted that it is proposed to make payments only to the secured creditor(ARCIL) which has overriding rights. The claim of ARCIL was admitted to the extent of a sum of Rs.4,65,00,000/- and therefore, keeping in mind the total funds available with the company in liquidation, he submitted that it is proposed to declare and disburse dividend at 30 paise in a rupee to

the secured creditor. The proposed dividend amount is Rs.1,39,50,000/-.

3.Upon considering the submission of the Deputy Official Liquidator and on examining the report dated 30.10.2019 along with the annexures thereto, it is evident that pursuant to the notice inviting claims, two secured creditors submitted claims in Form 66 and made claims for an aggregate sum of Rs.7,12,71,863/-. The said claims were adjudicated by the Official Liquidator and the admitted aggregate sum is Rs.4,73,07,071/-. As stated earlier, the total funds available with the company in liquidation is a sum of Rs.1,42,95,109.30 as set out in Paragraph 8 of the report dated 30.10.2019. Therefore, it is not possible to make payment to discharge the full admitted amount even to ARCIL. In view of the above position, the present application is liable to be allowed. Therefore, the following directions are issued:

(i)The Official Liquidator is permitted to declare and disburse dividend at 30 paise in a rupee to Asset Reconstruction Company (India) Limited amounting to Rs.1,39,50,000/-.

(ii)The Official Liquidator is permitted to dispense with causing publication in newspapers regarding declaration and disbursement of dividend, since the disbursement is to be made to one creditor only.

(iii)The Official Liquidator is permitted to disburse the dividend of Rs.1,39,50,000/- to ARCIL from the funds available to the credit of the company in liquidation.

(iv)The Official Liquidator is permitted to incur the expenses in connection with declaration/disbursement of dividend from the funds available to the credit of the company in liquidation.

4.This Application is disposed of on the above terms.

15.11.2019

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