IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE **M.SUNDAR**

Company Application No.194 of 2020
in
CP.No.55 of 1998
and
CP.No.55 of 1998

The Official Liquidator,
High Court, Madras as the
Provisional Liquidator of M/s.Tamilnadu
Magnesium and Marine Chemicals Limited
(In Liquidation)

... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 read with rules 9, 11(b) of the Companies (Court) Rules, 1959, praying to a) To take this report on record; b) To pass an order that it is just and reasonable to dissolve M/s.Tamilnadu Magnesium and Marine Chemicals 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 under liquidation; d) To pass an order permitting the Official Liquidator to deposit the remaining unspent money of Rs.12,21,726/- lying in the Company's credit after meeting all incidental expenses of the winding up process, including the present application to the Undistributed Assets Account as envisaged under section 555 of the Companies Act, 1956; and e) To take the application filed u/s 542/543 of the Companies Act, 1956 alongwith this application and close the same in view of the facts of the present application; f) To pass such order/orders of that the Hon'ble Court deem fit and proper in the circumstances of the case.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator.

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ORDER

Captioned Company Application i.e., Comp.A.No.194 of 2020 has been taken out by 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of brevity] with a multi-limbed prayer, which as culled out from Judge's Summons reads as follows:

'a) To take this report on record;

b) To pass an order that it is just and reasonable to dissolve M/s.Tamilnadu Magnesium and Marine Chemicals 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 under liquidation;

d) To pass an order permitting the Official Liquidator to deposit the remaining unspent money of Rs.12,21,726/- lying in the Company's credit after meeting all incidental expenses of the winding up process, including the present application to the Undistributed Assets Account as envisaged under section 555 of the Companies Act, 1956; and

e) To take the application filed u/s 542/543 of the Companies Act, 1956 alongwith this application and close the *same in view of the facts of the present application; f) To pass such order/orders of that the Hon'ble Court deem fit and proper in the circumstances of the case.'*

2. Captioned main 'Company Petition i.e., CP.No.55 of 1998' [hereinafter 'main CP' for the sake of convenience and clarity] is one for winding up 'Tamil Nadu Magnesium and Marine Chemicals Limited' [hereinafter 'said Company' for the sake of brevity] at the instance of 'Board for Industrial and Financial Reconstruction' (BIFR).

3. On behalf of OL, Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' [hereinafter 'Deputy OL' for the sake of brevity] is before this virtual Court in this web hearing on a video conferencing platform.

4. Learned Deputy OL, adverting to a 'report of OL dated 02.01.2020' [hereinafter 'said report' for the sake of convenience and clarity] submits that this Company Court appointed OL as Liquidator of said Company in and by an order dated 09.02.2001 with further direction to take charge of assets and effects of said Company. Adverting to other contents of said report, learned Deputy OL submits that what unfurled thereafter qua liquidation of said Company has been set out in those paragraphs.

5. With regard to claims and disbursement, the same is set out in paragraph 8 of said report, which reads as follows:

> *'8. It is submitted that the Official Liquidator has received 60 claims from creditors of the company in liquidation. Out of the 60 claims, 56 claims have been admitted and 4 claims were rejected for want of necessary original documentary proof. Pursuant to the directions of the Hon'ble Court dated 28.06.2004 made in C.A.No.768/2004, the Official Liquidator is permitted to declare and pay 100 paise in a rupee to preferential Creditors for Rs.49,39,023/- and 10 paise in a rupee to Ordinary creditors for (Rs.13,07,86,543/- + Rs.5,39,735/-)=Rs.13,13,262.78.'*

6. Adverting to paragraph 9 of said report, learned Deputy OL submits that an application for misfeasance *inter-alia* under Sections 542 & 543 of 'The Companies Act, 1956' [hereinafter 'said Act' for the sake of brevity] taken out by OL on 08.02.2006 against Ex-Directors, is not being pursued as no useful purpose would be served now at this distant point of time after the liquidation has reached such an advanced stage, which is virtually, final limb. Saying so learned Deputy OL submits that all pending applications in main CP can be treated as not pressed and dismissed as withdrawn. This

submission is recorded and if any application is pending in main CP, the same shall stand dismissed as not pressed in and by this order.

7. This takes us to paragraphs 10 and 11 of said report, which read as follows:

> *'10. It is submitted that the funds position of the company in liquidation is furnished in the final account attached with this report. It is submitted that the Official Liquidator is filing final statement of account as **Annexure-B** enclosed herewith and Official Liquidator has to be permitted to file the same without auditing as no further payments are to be made.*
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> *11. It is submitted that the Official Liquidator is to be permitted to transfer the amount lying in the credit of the Company in liquidation to the undistributed assets account as envisaged under Section 555 of the Companies Act, 1956.'*

8. There is a reference to Annexure-B in paragraph 10 and a perusal of Annexure-B reveals that a sum of Rs.12,13,862.96/- (Rupees Twelve Lakhs Thirteen Thousand Eight hundred and Sixty Two and Ninety Six Paise only) is now in the hands of OL and in any event one limb of multi-limbed prayer

in captioned application is for paying this balance also into the appropriate public account in Reserve Bank of India.

9. This Company Court, having perused said report, having heard learned Deputy OL, having noticed the trajectory of winding up proceedings qua said Company, having noticed that main CP is more than two decades and 2 years (22 years) old in this very Court, is left with the considered opinion that in the facts and circumstances of this case, it would be just and reasonable to pass an order of dissolution of said Company.

10. In the light of narrative thus far, captioned application and main CP are disposed of by acceding to prayer limbs (b) to (e) in captioned application.

11. Though obvious, it is made clear that said Company shall stand dissolved from the date of this order. There shall be no order as to costs.

18.09.2020

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M.SUNDAR. J

kmi

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