IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.185 of 2020
in
C.P.No.199 of 2005
&
C.P.No.199 of 2005

The Official Liquidator
High Court, Madras as the
Liquidator of
M/s. Southern Shelters Limited
(Provisional Liquidation) ... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 read with Rule 9, 11(b) of the Companies (Court) Rule, 1959 to take this report on record on the file of this Hon'ble Court, to permit the Official Liquidator to file the final account without audit as there will be no transactions from the account of the company in liquidation, to form an opinion that the Provisional liquidator cannot proceed with the winding up and that it is just and reasonable to make an order to pass winding up order and to dissolve M/s. Southern Shelters Limited under Section 481 of the Companies Act, 1956, to permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation after adjusting all the incidental expenses including the present application to the undistributed assets account as envisaged under Section 555 of the Companies Act, 1956.

For Petitioner : Mr.Bavisetty Sridhar
Deputy Official Liquidator

ORDER

Captioned main 'Company Petition'('CP' for the sake of brevity) is a vintage matter as the same is one and half decades old in this Court.

2. Captioned application has been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) and 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity) Mr.Bavisetty Sridhar is before this Company Court (on behalf of OL) in this web-hearing on a video-conferencing platform. Learned Deputy OL submits that 'Southern Shelters Limited' (hereinafter 'said Company' for the sake of brevity) is the Company under liquidation in captioned main CP. Learned Deputy OL draws the attention of this Court to the prayer in captioned application and submits that the same is a multi-limbed prayer. This multi-limbed prayer in the captioned application, as can be culled out from the judges summons, reads as follows:

'*a) to take this report on record on the file of this Hon'ble Court;*

b) to permit the Official Liquidator to file the final account without audit as there will be no transactions from the account of the company in liquidation;

c) to form an opinion that the Provisional liquidator cannot *proceed with the winding up and that it is just and reasonable to make an order to pass winding up order and to dissolve M/s. Southern Shelters Limited under Section 481 of the Companies Act, 1956;*

d) to permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation after adjusting all the incidental expenses including the present application to the undistributed assets account as envisaged under Section 555 of the Companies Act, 1956.

f) To pass such other order/s as this Hon'ble Court, Madras may deem fit and proper in the circumstances of the case.'

3. Aforementioned multi-limbed prayer has been made by OL *inter alia* under Section 481 of said Act.

4. Learned Deputy OL, drawing the attention of this Company Court to a 'report of OL dated 02.01.2020' (hereinafter 'said report' for the sake of brevity), which has been filed in support of captioned application submits that in and by an order dated 26.04.2006 made in captioned main CP, this Company Court ordered winding up of said Company, OL was appointed as provisional liquidator with a direction to take charge of the effects and assets of said Company. It is further submitted that thereafter winding up proceedings/process unfurled. Adverting to said report, learned Deputy OL submits that inter-alia most relevant part of said report is contained in Paragraphs 8 to 12, which read as follows:

'8. It is submitted that at the time of taking possession of the assets, the Ex-directors of the company have handed over the original sale deeds of the landed property pertaining to the company in liquidation to an extent of 0.10 cents at Selaiyur village, Manimegalai Street, East Tambaram in Survey No.129/2C. However they have stated that the said property is in dispute. The Official Liquidator has sent a letter to the Sub-Registrar, Selaiyur, Chennai to furnish the details of the said property on 24.03.2010, but no reply has been received. Hence the Official Liquidator once again sent to the Sub-Registrar, Selaiyur on 02/07/2018 & 11.09.2018. The Official Liquidator has also deputed an official on 13/11/2018 to get the details of the company's property situated at Selaiyur Village, Manimegalai Street, East Tambaram in Survey No.129/2C to an extent of 0.10 cents and another land situated at Vichoor Village, Ponneri comprised in Survey No.248/2 and 248/3 to an extent of 0.39 cents and 0.49 cents respectively.

9.It is submitted that as per the Encumbrance Certificate issued by the Sub-Registrar, Tambaram dated 21/05/2009, the company under liquidation is have a property in Survey No.129/2 Part and sale deed was executed on 08/01/1997 which is much before the order of winding up made on 26/04/2006.

10. It is submitted that as per the Encumbrance Certificate issued by Sub-Registrar, Tiruvottriyur the property in Survey No.248/2 and 248/3 have been sold on 20/12/1989 and 26/12/1989 much before the winding up order made on 26.04.2006. As such as on date the company does not have any properties.

11. It is submitted that the Official Liquidator has not called for claims from the creditors due to insufficient funds and no such application is pending before the Hon'ble high Court, Madras. The

Official Liquidator has also not received any voluntary claims.

12. It is submitted that as on date, the funds position of the company in liquidation is Rs.21,850.20. The available funds are very meagre and there will be no recovery or payment of dividend in future. It is respectfully 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.

5. This Court notices that the balance in the hands of OL qua said company is a meagre Rs.21,850.20 (Rupees Twenty One Thousand and Eight Hundred and Fifty and Twenty Paise only) and in any event, one limb of the prayer in the captioned application is for transferring this balance also into the appropriate public account in Reserve Bank of India in accordance with Section 555 of said Act.

6. This Court, having perused the said report, having heard learned Deputy OL, in the light of the narrative thus far, is left with the considered opinion that it would be just and reasonable in the circumstances of this case to order dissolution of said Company. Therefore, captioned application and captioned main CP are ordered by acceding to prayer limbs b), c) and d) in captioned application.

Said Company shall stand dissolved from the date of this order. Captioned company application and captioned main CP are ordered on above terms. There shall be no order as to costs.

11.09.2020

gpa

M.SUNDAR.J.,

gpa

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