

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.190 of 2020

&

Company Application No.802 of 2017

in

C.P.No.234 of 2015

&

C.P.No.234 of 2015

Company Application No.190 of 2020

The Official Liquidator

High Court, Madras as the

Liquidator of

M/s. Classic Spinning Mills Private Limited

(in 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 the file of this Hon'ble Court, to form an opinion that the Official Liquidator cannot proceed with the affairs of the company in liquidation and it is just and reasonable to dissolve M/s. Classic Spinning Mills Pvt. Ltd., (under Liquidation) finally and accordingly to pass consequential and appropriate orders, to pass an order permitting the Official Liquidator to file the final account without auditing as there are no funds available in the credit of the company in Provisional liquidation, to permit the Official Liquidator to withdraw the application under Section 454(5A) of the Companies Act, 1956, to permit the Official Liquidator to incur the expenditure for the present application out of Common Pool Fund Account and to pass any such other orders that the Hon'ble Court deem fit

and proper in the circumstances of the case.

Company Application No.802 of 2017

The Official Liquidator

High Court, Madras as the

Provisional Liquidator of

M/s.Classic Spinning Mill (P) Ltd.,

... Applicant

Vs.

1.Aadith D.Vikaram

2. Prem D

3. Veerappan Anbazhagan

... Respondents

Company Application filed under Section 477 of the Companies Act , 1956 read with Rule 9 and 11(b) of the Companies (Court) Rules 1959, to take this report on record; to summon the directors of the company and examine them about the affairs of the Company (in-liquidation) under Section 477 of the Companies Act, 1956; to direct the Respondents/Ex-directors of the company in liquidation to deliver the books, records, document and efforts of the company in liquidation to the Official Liquidator forthwith.

For Applicant : Mr.Bavisetty Sridhar
in both applications Deputy Official Liquidator

ORDER

'Classic Spinning Mills Private Limited' (hereinafter 'said Company'

for the sake of brevity), is the company under liquidation in the captioned main 'Company Petition' ('CP' for the sake of brevity), which was at the instance of a petitioning creditor.

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 prayer in Comp.A.No.190 of 2020 is a multi-limbed prayer. This multi-limbed prayer, which has been made *inter alia* under Section 481 of 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) as can be culled out from the judge's summons reads as follows:

- 'a) to take this report on the file of this Hon'ble Court;*
- b) to form an opinion that the Official Liquidator cannot proceed with the affairs of the company in liquidation and it is just and reasonable to dissolve M/s. Classic Spinning Mills Pvt. Ltd., (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 there are no funds available in the credit of the company in Provisional liquidation;*
- d) to permit the Official Liquidator to withdraw the application under Section 454(5A) of the Companies Act, 1956;*
- e) to permit the Official Liquidator to incur the expenditure for the present application out of Common Pool Fund Account;*
- f) to pass any such other orders that the Hon'ble Court*

deem fit and proper in the circumstances of the case.'

3. Learned Deputy OL submits that a 'report of OL dated 14.01.2020' (hereinafter 'said report' for the sake of brevity) has been filed in support of captioned application. It is submitted that Paragraphs 6 to 9 of said report are relevant and these paragraphs read as follows:

'6.It is also submitted that the Official Liquidator has not filed 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 accounts 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.

8. The funds Position of the company in liquidation as on 27.12.2019 as follows:

Cash – Nil

Bank – Nil

Investment- Nil

9. It is submitted that that there are no funds in the company's account and that there are no assets to be realized. The Official Liquidator has no other option except filing the present application under Section 481 of the Act for dissolving the company

finally. It is also submitted that no fruitful purpose would be served by allowing this company under liquidation to continue as a company under liquidation.'

4. It is submitted that with regard to complaint in the application made by OL under Section 454(5A) of said Act qua non-filing of Statement of Affairs will now not be pressed. It is submitted that the number and date of filing are not available. It is also submitted that this application or any other application in captioned CP taken out by OL will stand dismissed as not pressed. This submission is recorded.

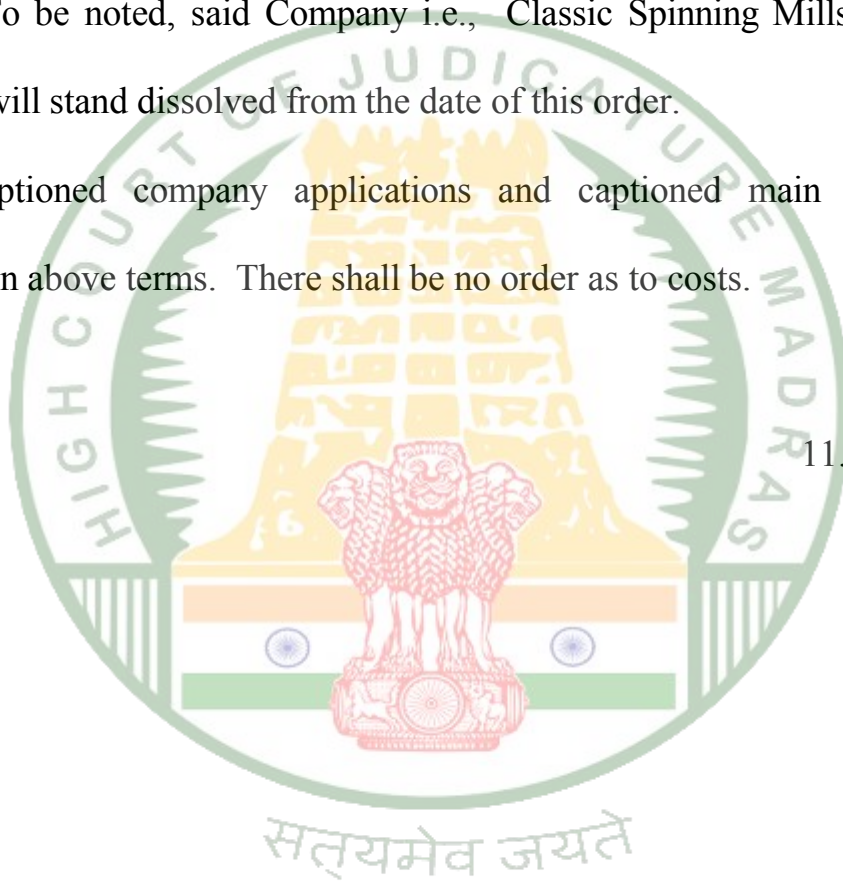
5. Adverting to said report, it is submitted by learned Deputy OL that this Company Court vide order dated 06.04.2017 made in captioned main CP appointed OL as liquidator of said Company with further direction to take charge of the assets and effects of the said company. It is submitted that the process of liquidation/winding up unfurled thereafter and it culminated in a situation which has been articulated in Paragraphs 6 to 9 of said report (extracted and reproduced supra), with regard to limb (d) in captioned application, the application under Section 454(5A) of said Act and/or any other application taken out by OL in captioned CP will stand dismissed in and by this order. With regard to captioned application and main CP, the same are ordered by acceding to limbs b), c) and e) in

captioned application as this Court is left with the considered opinion (in the light of the narrative thus far) that it is just and reasonable in the circumstances of this case that an order of dissolution of said Company is made. To be noted, said Company i.e., Classic Spinning Mills Private Limited will stand dissolved from the date of this order.

Captioned company applications and captioned main CP are ordered on above terms. There shall be no order as to costs.

11.09.2020

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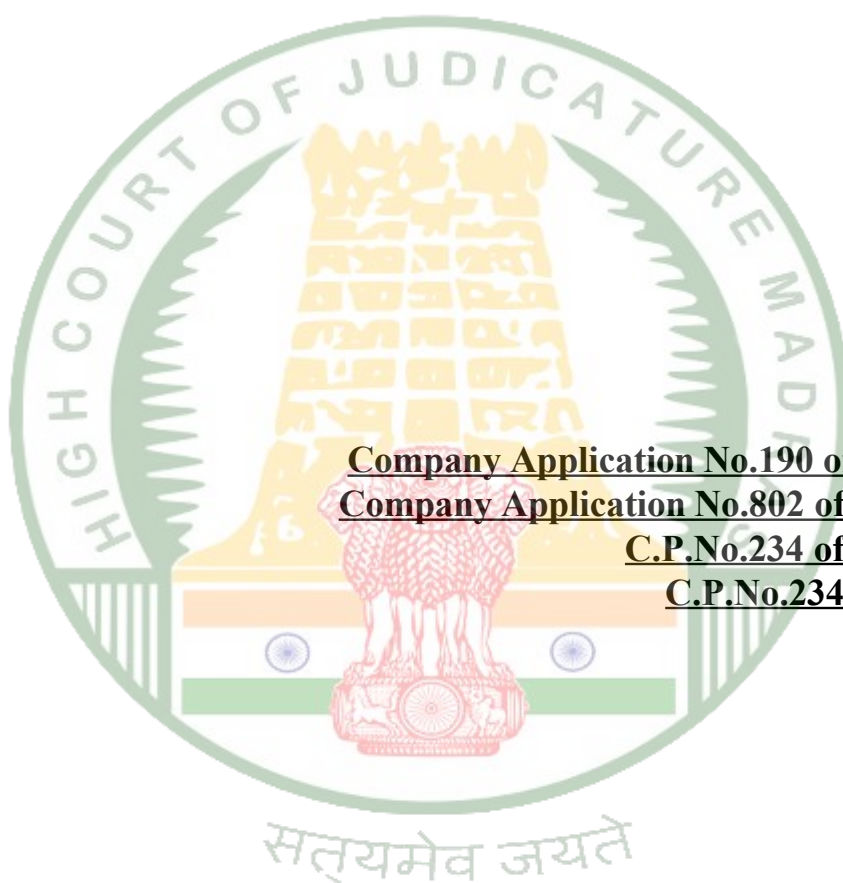


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C.P.No.234 of 2015&
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M.SUNDAR.J.,

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