IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.197 of 2020
in
C.P.No.76 of 1972
&
C.P.No.76 of 1972

The Official Liquidator
Liquidator of Delicon Private Limited
(in liquidation) ... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 to take this report on record, 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 liquidator cannot proceed with the winding up and that it is just and reasonable to make an order to dissolve M/s.Delicon Private 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 companies liquidation account as undistributed assets as envisaged under Section 555 of the Companies Act, 1956 and to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.Bavisetty Sridhar
Deputy Official Liquidator

ORDER

In less than two years from today captioned Company Petition i.e., 'C.P.No.76 of 1972' (hereinafter 'main CP' for the sake of convenience and clarity) would turn 50 or in other words, it would become a half a century old CP and therefore, main CP is clearly an ancient proceedings, if not ancient, it is clearly vintage.

2.Be that as it may, main CP is for winding up 'Delicon Private Limited' (hereinafter 'said Company' for the sake of brevity and clarity) at the instance of a petitioning creditor.

3.In and by an order made as early as on 08.11.1973 in main CP, this Company Court ordered winding up of said Company and gave further directions to the 'Official Liquidator attached to this Court' (hereinafter 'OL' for the sake of brevity) to take charge of all the assets and effects of said Company. Thereafter, the winding up proceedings qua said Company unfurled in accordance with 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity).

4.Be that as it may, captioned application i.e., C.A.No.197 of 2020 has been taken out by OL with a multi-limbed prayer, which as culled out from the judge's summons, reads reads as follows:

> '*a) to take this report on record;*
>
> *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 liquidator cannot proceed with the winding up and that it is just and reasonable to make an order to dissolve M/s.Delicon Private 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 companies liquidation account as undistributed assets as envisaged under Section 555 of the Companies Act, 1956; and*
>
> *e) to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.'*

5. On behalf of OL, Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity) is before me in this web-hearing on a video-conferencing platform. Learned Deputy OL, adverting to a 'report of OL dated 13.01.2020' (hereinafter 'said report'

for the sake of brevity) submits that said report has been filed in support of captioned application.

6. It is submitted by learned Deputy OL that what unfurled after 08.11.1973 order of this Company Court for winding up of said Company has been captured in said report. It is also submitted that most relevant part of said report with regard to multi-limbed prayer in captioned application are Paragraphs 6 to 8, which read as follows:

> *'6.It is submitted that as on the date, the fund position of the company in liquidation is Rs.34,450/-. The available funds are very meager and 46 years have passed from the date of winding up. There will be no further 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.*
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> *7. It is also submitted that the balance amount remaining in the account of company as undistributed assets the Official Liquidator could be transferred to companies liquidation account as envisaged under section 555 of the Companies Act, 1956 after meeting all the incidental expenses including the present application.*

8. It is submitted that the Official Liquidator is to be permitted to file final account without audit of the same as there will be no other transactions in the account of the company in liquidation.'

7. With regard to paragraph 6 of said report, it has been mentioned that the fund position of said Company is Rs.34,450/- (Rupees Thirty Four Thousand Four Hundred and Fifty only), but according to the annexure to said report, the balance in the hands of OL qua said Company is Rs.34,449.91 (Rupees Thirty Four Thousand Four Hundred and Forty Nine and Ninety One paise only). Learned Deputy OL very fairly submitted that this is a typographical error and the balance, as shown in the annexure, is the correct figure and this Court notices that one limb of the prayer in the captioned application is to permit the OL to pay into the appropriate public account in Reserve Bank of India ***inter alia*** under Section 555 (2) of said Act this meagre balance also.

8. This Court having noticed that nearly half a century old main CP has served its purpose, this Court having heard learned Deputy OL, having perused said report, is left with the considered opinion that it

would be a penny wise and pound foolish exercise to pursue the liquidation any further and it would be viable / tenable to accede to prayer for dissolution in captioned application. To be noted, dissolution prayer in captioned application has been made *inter alia* under Section 481 of said Act.

In the light of the narrative thus far, captioned application and captioned main CP are disposed of by acceding to prayer limbs (b), (c) and (d) of captioned application. Though obvious, it is made clear that said Company will stand dissolved from the date of this order. There shall be no order as to costs.

18.09.2020

gpa

M.SUNDAR.J.,

gpa

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