

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2020

CORAM:

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

Company Application No.176 of 2020

in
CP.No.393 of 2014
and
CP.No.393 of 2014

The Official Liquidator,
High Court, Madras as
The Liquidator of Health Code (India) Private Limited
(In Provisional 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 the file of Hon'ble Court; b) To form an opinion that the liquidator cannot proceed with the winding up and that it is just and reasonable in the circumstances of the case to order for the dissolution of the company finally and to pass consequent and appropriate orders; c) To permit the Official Liquidator to file the final account without auditing since there are no transactions in the company's account; d) To grant permission to transfer the balance amount lying in the credit of the company in liquidation to the undistributed assets account as envisage under section 555(2) of the Companies Act, 1956 after meeting all the expenses related to the winding up including filing this present application and e) To pass any such other orders that the Hon'ble Court deem fit and proper in the circumstances of the case.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator.

ORDER

Captioned application has been taken out by 'Official Liquidator attached to this Court' [hereinafter 'OL' for brevity and convenience] *inter alia* under Section 481 and Section 555(2) of 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) with a multiple limbed prayer which as culled out from the Judge's Summons reads as follows:

- 'a) To take this report on the file of Hon'ble Court.*
- b) To form an opinion that the liquidator cannot proceed with the winding up and that it is just and reasonable in the circumstances of the case to order for the dissolution of the company finally and to pass consequent and appropriate orders.*
- c) To permit the Official Liquidator to file the final account without auditing since there are no transactions in the company's account.*
- d) To grant permission to transfer the balance amount lying in the credit of the company in liquidation to the undistributed assets account as envisage under section 555(2) of the Companies Act, 1956 after meeting all the expenses related to the winding up including filing this present application. and*
- e) To pass any such other orders that the Hon'ble Court deem fit and proper in the circumstances of the case.'*

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

4. Learned Deputy OL submits that a 'report of OL dated 30.01.2020' (hereinafter 'said report' for the sake of brevity and convenience) has been filed in support of captioned application. It is also submitted that one 'Health Code (India) Private Limited' (hereinafter 'said company' for the sake of brevity and convenience) is under liquidation in captioned 'Company Petition' (hereinafter 'CP' for the sake of brevity). It is further submitted that said company was ordered to be wound up by an order dated 05.01.2018 made in captioned CP by this Company Court and OL was appointed as Provisional Liquidator qua said company with a direction to take charge of all the assets and effects of said company. Adverting to said report, it is also submitted that OL visited the Registered Office of said Company and on so visiting, it was realised that it is a residence. It is also submitted that the gentleman there, whom this Court is informed is the landlord of the said premises, informed that said Company had vacated its office more than eight years back and forwarding address or whereabouts are not known and that the rental advance has been adjusted towards monthly rental dues.

5. In the aforesaid backdrop, paragraphs 3 to 7 of said report are relevant and the same read as follows:

'3. It is respectfully submitted that office of the Official Liquidator has issued notices to all the Ex-directors in Form No.55 dated 16.08.2018 to file the statement of affairs and also to handover books of account and records of the company in Provisional Liquidation as per the provisions of Section 454(3) of the Act. But the notices sent to the Ex-directors were returned undelivered with postal remarks "left".

The Ex-directors of the company in Provisional Liquidation have neither submitted Statement of affairs nor handed over the books and records of the company in Provisional Liquidation till date.

4. It is submitted that the Ex-directors of the company have not submitted the Statement of Affairs, hence the Official Liquidator had filed an application u/s.454 (5A) of the Companies Act, 1956 against the Ex-Directors for non filing of Statement of Affairs on 19.11.2018 which is pending before the Hon'ble Court.

5. It is respectfully submitted that the Official Liquidator issued letter dated 31.12.2019 to Secured creditor and petitioning creditor for a meeting with them on 06.01.2020 at 11.30.a.m to discuss about the affairs of the company and to ascertain the status of the company as per their records and to take further course liquidation proceeding. However, no one were present for the meeting scheduled on 06.01.2020.

6. It is submitted that the funds position of the company in liquidation as on date of filing the present application is as follows:

Cash	: Nil
Bank Balance	: Rs.24,980
Investment	: Nil

7. It is submitted that the funds position of the company as on 10.01.2020 is Rs.24,980/- and since all the assets pertaining to the company in liquidation as per the records have been sold and no further realization is possible, it is felt 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 finally as envisaged under section 481 of the Companies Act, 1956. It is to the Hon'ble Court to form an opinion that the Liquidator cannot proceed with the winding up and it would be put and reasonable to dissolve company finally.'

6. With regard to paragraph 4 of said report, learned Deputy OL, on instructions, submits that the application referred to therein has not been numbered, OL would not pursue the same and the same is not pressed. This submission is recorded.

7. Aforementioned paragraphs of said report (extracted and reproduced supra) speak for themselves. From the Annexure to said report, it comes to light that balance in the hands of OL is a very meagre Rs.24,980.00/- (Rupees twenty four thousand nine hundred and eighty only). In any event, prayer in captioned application reveals that one limb of prayer is for transferring this balance also to the credit of the appropriate public account in the Reserve Bank of India under Section 555(2) of said Act.

8. Learned Deputy OL submits on instructions that no claims are pending. This, viewed in the light of said report and narrative thus far leaves this Company Court with the considered opinion that it would be just and reasonable in the circumstances of this case to order dissolution of said company.

9. Captioned application and captioned CP are disposed of by acceding to limbs b), c) and d) of prayer in captioned application. Company Application and Company Petition are disposed of on above terms. There shall be no order as to costs.

04.09.2020

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M.SUNDAR. J

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