IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.541 of 2018
in
C.P.No.43 of 1995
&
C.P.No.43 of 1995

The Official Liquidator
High Court, Madras as the
Liquidator of M/s. F.C.Alloys Steels (P) Limited ... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 read with Rule 9, 11(b) of the Companies Act, 1959 to take his report on record on the file of the Hon'ble Court, to permit the Official Liquidator to file the final account without audit as there will be no transactions out of the funds 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 the company under Section 481 of the Companies Act, 1956, to grant permission to transfer an amount of Rs.75,000/- to Infrastructure Fund maintained by the Official Liquidator and deposit the remaining unspent amount to the undistributed Assets Account under Section 555 of the Companies Act, 1956 after meeting all the incidental expenses related to the winding up proceedings of the subject company including the present application.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator

ORDER

Captioned Company Petition is clearly vintage nay ancient, as it is of the year 1995 and it is more than 25 years old in this Court.

2. One 'FC Alloys Steel Private Limited' (hereinafter 'said company' for the sake of brevity and convenience) is the Company under liquidation in captioned Company Petition, which was at the instance of 'Board for Industrial and Financial Reconstruction' (BIFR). Captioned application has been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) and Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' (hereinafter 'Deputy OL' for the sake of brevity) representing OL is before this virtual Court in this web-hearing on a video-conferencing platform.

3. It is submitted by learned Deputy OL that captioned application is one seeking dissolution of said Company under Section 481 of 'The Companies Act, 1956' (hereinafter 'said Act ' for the sake of brevity). Learned Deputy OL, adverting to report of OL filed in support of

captioned application, submits that it is dated 05.09.2018. This submission is recorded as the report placed before this Court as part of the case file mentions September of 2018, but does not give the exact date.

4. Be that as it may, this 'report of OL dated 05.09.2018' filed in support of captioned application shall hereinafter be referred to as 'said report' for the sake of brevity. Most relevant portions of said report are Paragraphs 6 to 9, which read as follows:

> *'6.It is submitted that the Official Liquidator has called for claims as per the orders of this Hon'ble Court dated 17.10.2006 in C.A.No.1733 of 2006. The Official Liquidator has received claims from secured creditors and workers. The Official Liquidator has adjudicated claims of workers and also secured creditors. It is also submitted that the Official Liquidator an application in C.A.No.808 of 2007 for making payment to workers as well as secured creditors. The workers were paid at 100% amounting to Rs.5,53,192/- and secured creditors were paid at 0.378 paise in a rupee.*
>
> *7. It is submitted that as on the date, the fund position of the company in liquidation is Rs.1,86,313/-. Since the realized funds from the sale of assets were distributed as dividend among creditors of the company including workmen and the available funds are very meager, 17 years have passed*

since the date of winding up and there will be no recovery or payment of dividend. It is respectfully submitted that no fruitful purpose would be served by allowing this company to continue in its existence, rather it would be more appropriate to dissolve the company. It is submitted that Hon'ble Court, has passed an order dated 31.10.2008 regard to dissolution of the company, however, no final order was made by the Hon'ble Court, Madras. Hence this report. The copy of the order dated 31.10.2008 is attached herewith and marked as ***Annexure "B"***.

8. It is submitted that the office of Official Liquidator is functioning in its own building and the Official Liquidator is incurring expenditure towards its maintenance. If an amount of Rs.75,000/- from the funds of the company is transferred to the infrastructure fund of Official Liquidator it will be useful for the development of infrastructure.

9. It is also submitted that the balance amount remaining in the account of the company could be transferred to undistributed assets of the company's under liquidation as envisaged under section 555 of Companies Act, 1956 transferring the amount transferred to infrastructure fund as stated in para 8 supra.'

5. It is submitted by learned Deputy OL that Company Application No.967 of 2004 has been taken out and the same is under Section 454(5A) of said Act. Learned Deputy OL, on instructions, submit that

this application is being withdrawn as not pressed and this submission is recorded. Saying so, learned Deputy OL drew the attention of this Court to three critical limbs of the prayers in captioned application, which read as follows:

> '*a) To permit the Official Liquidator to file the final account without audit as there will be no transactions out of the funds of the company in liquidation;*
>
> *b) 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 the company under Section 481 of the Companies Act, 1956;*
>
> *c) To grant permission to transfer an amount of Rs.75,000/- to Infrastructure Fund maintained by the Official Liquidator and deposit the remaining unspent amount to the undistributed Assets Account under Section 555 of the Companies Act, 1956 after meeting all the incidental expenses related to the winding up proceedings of the subject company including the present application.'*

6. Having perused said report, having heard learned Deputy OL, this Court is of the considered opinion that it would be just and reasonable in the circumstances of this case to order dissolution of said Company. To be noted, According to Annexure II of said report, balance

in the hands of OL is Rs.1,95,567.20 and post appropriation vide third limb of the aforementioned prayer, balance would be deposited into appropriate account in the Reserve Bank of India.

In the light of the narrative thus far captioned company application and company petition are ordered by acceding to the three limbs of prayers extracted and reproduced in paragraph 5 of this order supra. No costs.

28.08.2020

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M.SUNDAR.J.,

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