

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.08.2020

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THE HON'BLE Mr.JUSTICE M.SUNDAR

C.A.No.172 of 2020 in

C.P.No.2 of 1970

and

C.P.No.2 of 1970

The Official Liquidator
High Court, Madras
As the Liquidator of
Associated Industrial and Engineering Ltd.

... Applicant

This Company Application filed under Section 481 of the Companies Act, 1956 read with Rule 9 & 11 (b) of Companies (Court) Rule, 1959 praying (a) to take this report on record on the file of this Court; (b) To permit the Official Liquidator to file the final account without audit; (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 the company under Section 481 of the Companies Act, 1956; (d) To grant permission to transfer the balance amount lying at the credit of company in liquidation to the undistributed Assets of companies in liquidation Account under Section 555 of the Companies Act, 1956 after meeting all the expenses related to the winding up proceedings of the subject company including the expenses for the present application.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator

ORDER

Captioned main Company Petition is vintage, nay ancient as it is more than half a century old.

2. Captioned application has been taken out inter alia under Section 481 of the Companies Act, 1956 (hereinafter 'said Act' for the sake of brevity) amongst other prayers with a prayer for dissolution of company under liquidation To be noted, 'Associated Industrial and Engineering Limited' (hereinafter 'said company' for the sake of brevity) is the company under liquidation in the captioned Company Petition at the instance of a petitioning creditor.

3. Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' (hereinafter 'Deputy OL' for the sake of brevity) representing 'Official Liquidator attached to this Court' (hereinafter 'OL' for the sake of brevity) is before me in this web-hearing on a video-conferencing platform and learned Deputy OL draws my attention to a report of OL dated 13.03.2020 which has been filed in support of the captioned application. Paragraphs 2 to 7 of this report of OL are relevant and the same read as follows:

'2. It is submitted Associated Industrial and Engineering Ltd a company incorporated under the Companies Act, 1956 having its

registered office in the State of Tamilnadu has been ordered to be wound up under the orders of this Hon'ble Court dated 03.04.1970 passed in C.P.No.2 of 1970 with directions to take charge of assets and effects of the company. The copy of the order is attached herewith and marked as Annexure-I.

3. It is submitted that the Official Liquidator deputed officials to the registered office of the company at 19, Cathedral road, Madras- 6 and took possession of movable assets of the company and all the assets were sold for Rs.8,12,068.04.

4. It is submitted that the ex-directors of the company in liquidation filed a defective statement of affairs on 11.06.1970. Letters have issued to the Ex- Directors to correct the Statement of Affairs. But till date they have not submitted proper statement of affairs.

5. It is submitted that the Official Liquidator filed an application under Section 542 and 543 of the Companies Act, 1956 in C.A.No.141 of 1975 and the same was dismissed by the Hon'ble Court vide its order dated 20/06/1997.

6. It is submitted that the Official Liquidator called for claims from the creditors and filed list of creditors on 30.03.1989. A dividend 100 paise in a rupee was paid to the pref.creditors and dividend of 15 paise in a rupee was paid to the ordinary creditors as per orders of Hon'ble Court, made on 23.6.89.

7. It is submitted that as on date the company under liquidation is having a sum of Rs.3,86,025.81 to its credit. Since the funds

available in the company's account is meager, over 47 years have passed since the date of winding up order and claims were also settled, 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 and deposit the said amount in the Undistributed Assets Account under Section 555(1) of the Companies Act, 1956 after meeting the incidental expenses of dissolution.'

4. Adverting to the aforementioned report of OL, learned Deputy OL submits that OL cannot proceed with winding up of said company for want of funds and assets.

5. Relevant limbs of prayer in captioned application are as follows:

'b) To permit the Official Liquidator to file the final account without audit.

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 the company under section 481 of the Companies Act, 1956.

d) To grant permission to transfer the balance amount lying at the credit of company in liquidation to the undistributed Assets of companies in liquidation Account under section 555 of the

Companies Act, 1956 after meeting all the expenses related to the winding up proceedings of the subject company including the expenses for the present application.'

6.Having heard learned Deputy OL, having perused aforementioned report of OL and having been satisfied that it would be an untenable exercise to keep this matter pending, as it would clearly be a penny wise and pound foolish endeavour, this Court is of the opinion that it would be just and reasonable in the circumstances of the case to order dissolution of said company. To be noted, balance in the hands of OL (as per Annexure to aforementioned report) is Rs.3,86,025.81 and there is one limb of prayer in captioned application for depositing this balance in the public account of India in the Reserve Bank of India in accordance with Section 555 of said Act.

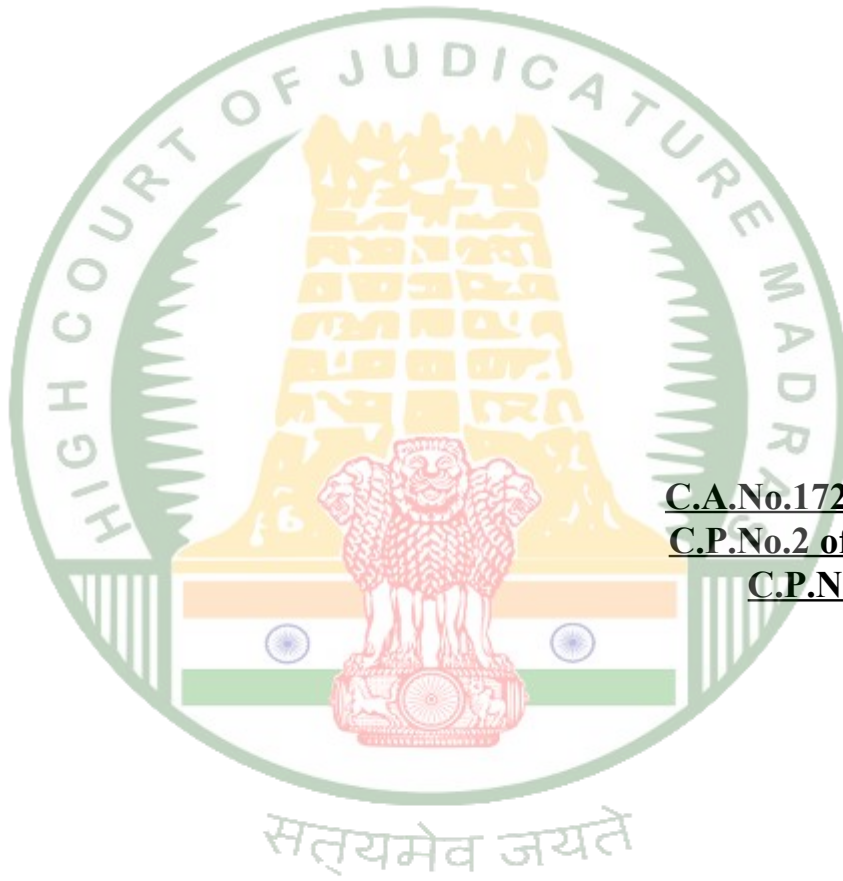
In the light of narrative thus far, captioned Company Application and Company Petition are ordered by acceding to the aforementioned three limbs of prayer (extracted and reproduced in paragraph 5 of this order).

28.08.2020

Speaking/Non-Speaking Order
Index: Yes/No
sgl

M.SUNDAR, J

sgl



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