IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.08.2020

CORAM

THE HON'BLE Mr.JUSTICE **M.SUNDAR**

C.A.No.168 of 2020 in
C.P.No.551 of 2000
and
C.P.No.551 of 2000

The Official Liquidator,
High Court, Madras as the
Liquidator of M/s.Salem Chamundee Finance
Limited (In Liquidation) ... Applicant

Vs.

Salem Chamundee Finance Limited,
No.114-A, Chamundee Shopping Complex,
Four Roads, Salem - 7. ... Respondent

This Company Application filed under Section 460 (4) and 481 of the Companies Act, 1956 read with Rules, 9, 11(b) of Companies (Court) Rules, 1959 praying to (a) to take this report on record; (b) to form an opinion that the Official Liquidator cannot proceed with the winding up and it is just and reasonable in the circumstances of the case to order for the dissolution M/s.Salem Chamundee Finance Limited, finally and to pass consequential and appropriate orders; (c) To permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation to the undistributed assets account as envisaged under Section 555(2) of the Companies Act, 1956 after meeting all the expenses related to the winding up including the present application; (d) to permit the Official Liquidator to file the final Accounts without auditing since there will be no transactions in the company's account.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator

For Respondent : Ms.Prerna

ORDER

Captioned application has been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) who is represented by 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity)Mr.Bavisetty Sridhar in this web-hearing on a video-conferencing platform today. Ms.Prerna representing Mr.A.K.Mylsamy, counsel on record for the petitioner in the main Company Petition (voluntary winding up petition) is also before this Virtual Court.

2.This Court heard both Deputy OL and aforementioned learned counsel.

3.Company under voluntary winding up/ liquidation is 'Salem Chamundee Finance Limited' (hereinafter 'said company' for the sake of brevity and clarity). Relevant limbs of prayer in captioned application read as follows:

'b) To form an opinion that the Official Liquidator cannot proceed with the winding up and it is just and reasonable in the circumstances of the case to order for the dissolution M/s.Salem

Chamundee Finance Limited, finally and to pass consequential and appropriate orders;

c)To permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation to the undistributed assets account as envisaged under section 555(2) of the Companies Act, 1956 after meeting all the expenses related to the winding up including the present application;

d)To permit the Official Liquidator to file the final Accounts without auditing since there will be no transactions in the company's account.'

4.Most critical part of the report filed by OL in support of captioned application is contained in paragraphs 4 to 7 which read as follows:

'4.It is submitted that as per the Statement of Affairs filed by the Ex-Directors of the company, the company had a liability of Rs.6,50,000/- to one Secured Creditor M/s.Karur Vysya Bank and a liability of Rs.61,08,259/- towards unsecured creditors. It is submitted that the Official Liquidator recovered Rs.5,52,423/- from the debtors of the company.

5.It is submitted that the Hon'ble High Court, Madras by an order dated 14.11.2018 made in C.A.No.638 of 2018 directed the Official Liquidator to call for the claims from the creditors of the company in Liquidation. No claims, either voluntarily or after invitation made by the Official Liquidator, were received *from the creditors of the company in Liquidation.*

6.It is submitted that no application is pending under Section 454(5A) of the Companies Act, 1956 or 542 & 543 of the Companies Act, 1956 before the Hon'ble High Court.

7.It is respectfully submitted that the Official Liquidator could not proceed further in the absence of the details/availability of crucial/relevant books and records in respect of realizing book debts and all other related matters. Hence it is felt that no fruitful purpose would be served by allowing this company to continue to its existence rather it could be 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 reasonable to dissolve this company finally.'

5.Having heard aforementioned learned counsel, Deputy OL and having noticed that captioned voluntary winding up petition is more than 20 years old, this Court is of the opinion that the Liquidator cannot proceed with winding up of aforementioned company and it would be just and reasonable in circumstances of the case to order dissolution of aforementioned said company. This Court is informed that there no claims are pending. From Annexure-B to the aforementioned report of the OL dated 13.03.2020, it is seen that a sum of Rs.5,40,963.20 is the balance on hand with the OL and the same has to be deposited in the public account of India in the Reserve Bank of India in accordance with Section 555 of The Companies Act, 1956.

6.In the light of narrative thus far, aforementioned three limbs of prayers in captioned application (extracted and reproduced in paragraph 3 of this order supra) acceded to.

Salem Chamundee Finance Limited (said company) will stand dissolved by this order. Company Application and Company Petition are ordered accordingly.

28.08.2020

Speaking / Non-Speaking Order

Index : Yes/No

sgl

M.SUNDAR, J

sgl

<u>Comp.A.No.168 of 2020 in</u>
<u>C.P.No.551 of 2000</u>

28.08.2020