

Company Application No.165 of 2020
in
Company Petition No.223 of 2009

M.SUNDAR, J.

Captioned application has been taken out by 'Official Liquidator attached to this Court' (hereinafter 'OL' for the sake of brevity) and 'Deputy Official Liquidator' (hereinafter 'Dy.O.L' for the sake of brevity) Mr.Bavisetty Sridhar on behalf of OL, is before this company court in this web hearing on a video conferencing platform.

2 Learned Dy.O.L submits that prayer in the captioned application is a multi limbed prayer. This multi limbed prayer in the captioned application as can be culled out from the judges summons reads as follows:

- 'a)To take this report on record,
- b)To approve the certified list of creditors in Form No.71 enclosed as **Annexure "A"** to this report,
- c)To permit the Official To Liquidator to declare and pay dividend @ 100% to 35 workmen creditors for Rs.7,69,790/- and @ 60% to 2 preferential creditors for Rs.2,30,58,830/- on the admitted amount, totalling to a sum of Rs.2,38,28,620/-,
- d)To permit the Official Liquidator to dispense with

publication of notice of declaration of dividend in newspapers as required under Rule 276 of the Companies (Court) Rules 1959, since the disbursement is to be made to 37 claimants only,

e)To permit the Official Liquidator to open a separate dividend account with Punjab National Bank, NSC Bose Road, Chennai for a total amount of Rs.2,38,28,620/-, exclusively for disbursement to 37 claimants,

f)To permit the Official Liquidator to dispense with the requirement of Succession Certificate under Rule 280 of the Companies (Court) Rules 1959 and to make payment to the Legal heirs upon submission of death certificate, legal heir certificate and No Objection Certificate, in case the creditor is deceased.

g)To permit the Official Liquidator to keep the dividend account open for six months from the date of opening and to transfer the unpaid dividend, if any, to the account of Registrar of Companies, Tamil Nadu, Chennai as required under section 555(1) and (3) of the Companies Act, 1956,

h)To permit the Official Liquidator to defray the expenses in connection with the declaration and disbursement of dividend from the funds of the company in Provisional Liquidation and

i)To pass such further or other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

3 Learned Dy O.L submits that a 'report of OL dated

16.06.2020' and 'additional report of OL dated 07.09.2020' ('said report' and 'additional report' respectively for the sake of brevity) have been filed in support of the captioned application. Furthering his submissions, learned Dy.O.L submits that paragraphs 3 to 6 of said report are inter-alia most relevant for the multi limbed prayer in the captioned application and these paragraphs read as follows:

'3.That in compliance of the order dated 29.06.2012 passed by this Hon'ble Court in Company Application No.431 of 2012 in C.P.No.223 of 2009, the Official Liquidator invited claims from the creditors of the company in liquidation by publishing the notice on 22.07.2012 and fixing the last date for submission of claims as 14.09.2012. In response to the publication, the Official Liquidator received 72 claims from the workmen and 4 claims from other creditors. The said 72 claims of workmen creditors were rejected for non-submission of original documentary evidence and rejection notices in Form No.69 were also issued to the workmen creditors. Subsequently, by another order dated 19.07.2019 in Company Application No.213 to 230 of 2019 moved by the workmen creditors, the Hon'ble High Court, Madras directed the applicants/workers to appear before the Official Liquidator with permission to inspect the documents to prove their claims within a period of one month with a liberty to file fresh application before the Hon'ble High Court of Madras. As directed by this Hon'ble Court, inspection of documents was carried out by Shri.B.Sarath Babu, counsel for the workmen creditors. Upon such inspection, it was

observed that information regarding date of joining of workmen creditors was not available in any document, which is vital to calculate the dividend dues. However, the counsel assured to provide the details of date of joining of workmen creditors.

4. That as an alternative measure, the Official Liquidator has issued a letter on 06.11.2019 to Employees Provident Fund organisation, Mogappair West, Chennai to furnish the list of workers along with name and address, last drawn pay slip, date of joining and EPF deduction etc., However, Employees Provident Fund organisation has replied that no such information is available. In the meantime, the counsel, Shri.B.Sarath Babu, in compliance of the Hon'ble High Court, Madras order dated 19.07.2019 made in C.A.No.213 to 230 of 2019, has submitted the payslips of 35 workmen creditors on 03.02.2020. Based on the same, the said 35 workmen claims were re-adjudicated and admitted for a total sum of Rs.7,69,790/- and the remaining 37 workmen claims, as stated earlier, were already rejected due to non-submission of documentary evidence.

5. That the details of claims received/adjudicated are as follows:

Sl. No.	Category of creditors	Number of creditors	Amount claimed (in Rs.)	Amount admitted (in Rs.)	Amount Rejected (in Rs)	Remarks
1	Workmen creditors (529A)	72	43,88,507	7,69,790 (35 crs.)	36,18,717	Rejected for non submission of documentary evidence

2	Central Excise Department (Pref. Cr.)	1	3,89,00,777	3,84,00,777	5,00,000	Penalty imposed on MD rejected
3	Commercial Tax Department, Chennai (Pref. Cr.)	1	1,46,343	30,606	1,15,737	Interest amount not allowed
4	Adithya Packers (ordinary creditor)	1	2,52,139	58,687	1,93,452	Rejected for non submission of documentary evidence
5	Hind Lamps P Limited (ordinary creditor)	1	29,97,907.91	--	29,97,907.91	Rejected for non submission of documentary evidence
	Total	76	4,66,85,673.91	3,92,59,860	74,25,813.91	

6. That the funds position of the company in liquidation as on 02.06.2020 is as follows:

Bank : 2,20,165.89

Investment : 2,30,55,000.00

Total 2,32,75,165.89

(On pre-closure Fund available Rs.2,38,44,465/-)

Further as informed by Punjab National Bank, NSC Bose Road, Rs.2,38,44,465/- will be available for disbursement on pre-closure of Fixed Deposit in the month of June, 2020.'

4 Adverting to aforementioned said report and additional report, learned Dy.O.L submits that if the multi limbed prayer in captioned application is acceded to, the winding up / liquidation process can be carried to its logical end inter-alia by seeking dissolution of company under liquidation under Section 481 of the Companies Act, 1956.

5 Be that as it may, having perused aforementioned said report / additional report, having heard the Dy O.L, having been satisfied that acceding to limbs (b) to (h) of the multi limbed prayer would further the process of liquidation / winding up, captioned application is ordered by acceding to prayer limbs (b) to (h). There shall be no order as to costs.

11.09.2020

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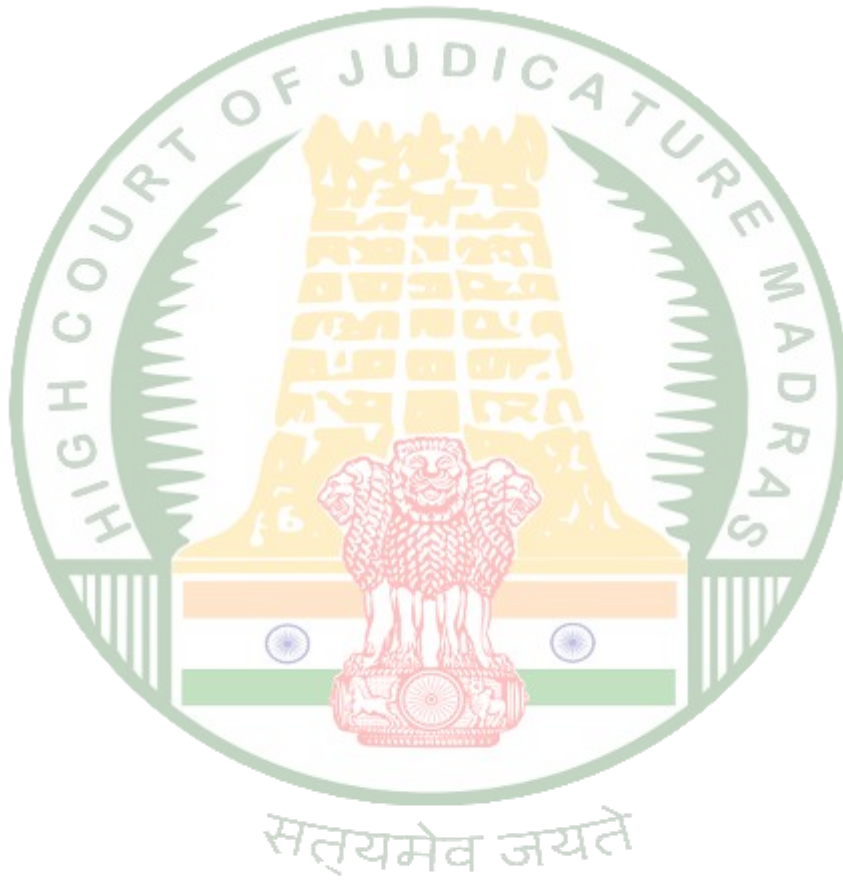
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