IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.189 of 2020
in
C.P.No.34 of 1988
&
C.P.No.34 of 1988

The Official Liquidator
High Court, Madras as the
Liquidator of
M/s. Industrial & Agricultural Engineering Company
(Madras) Private Limited
(in liquidation) ... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 read with Rule 9, 11(b) of the Companies (Court) Rule, 1959 to take this report on record on the file of this Hon'ble Court, to permit the Official Liquidator to file the final account without audit as there will be no transactions from the account 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 M/s. Industrial & Agricultural Engineering Company (Madras) Private Limited under Section 481 of the Companies Act, 1956, to permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation after adjusting all the incidental expenses including the present application to the undistributed assets Account as envisaged under Section 555 of the Companies Act, 1956.

For Petitioner : Mr.Bavisetty Sridhar

Deputy Official Liquidator

ORDER

Three decades and two years old captioned 'Company Petition' ('CP' for the sake of brevity) is a vintage proceeding. Captioned CP is for winding up 'Industrial & Agricultural Engineering Company (Madras) Private Limited' (hereinafter 'said company' for the sake of brevity) at the instance of a petitioning creditor.

2.Captioned application has now been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) *inter alia* under Section 481 of 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) with a multi-limbed prayer and this multi-limbed prayer, as can be culled out from the judge's summons, reads as follows:

> *a) to take this report on record on the file of this Hon'ble Court;*
>
> *b) to permit the Official Liquidator to file the final account without audit as there will be no transactions from the account of the company in liquidation;*
>
> *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 M/s. Industrial & Agricultural Engineering Company (Madras) Private Limited under Section 481 of the*

Companies Act, 1956;

d) to permit the Official Liquidator to transfer the balance amount lying in the credit of the company in liquidation after adjusting all the incidental expenses including the present application to the undistributed assets Account as envisaged under Section 555 of the Companies Act, 1956;

and

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

3. Learned 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity) Mr.Bavisetty Sridhar, who is before this Company Court, submits that a 'report of OL dated 23.03.2020' (hereinafter 'said report' for the sake of brevity) has been filed in support of captioned application. Adverting to said report, learned Deputy OL submits that in and by order dated 01.03.1996 made in captioned vintage CP, this Company Court ordered winding up of said Company, appointed OL as Liquidator of said Company and gave further directions to take charge of the assets and effects of said Company. It is submitted that the same was done and the liquidation or in other words winding up process unfurled thereafter. It is also submitted that the winding up/liquidation process has now

virtually reached its logical end.

4. In this regard, it is submitted that Paragraphs 4 to 7 of said report are *inter-alia* most relevant qua the multi-limbed prayer in the captioned application. Paragraphs 4 to 7 of said report read as follows:

> *'4. It is submitted that pursuant to the order dated 13.09.2013 made in C.A.No.946 of 2013, the Official Liquidator has invited claims from the creditors of the company in liquidation by fixing the last date for submission of claims on 14.08.2014. In response to the publication, the Official Liquidator has received only one ordinary claim from the petitioning creditor i.e., M/s.Mysore Electrical Industries Limited for Rs.31,81,743/-. The Official Liquidator has issued Form No.68 to the claimant on 20.09.2018 to submit original documentary evidence to substantiate the claim and the claimant has not submitted the original documents. Further, this office has issued five reminder letters to the claimant on 14.08.2014, 20.09.2018, 28.09.2018, 01.03.2019 and 16.04.2019, the claimant has not submitted the original documentary evidence. As the claimant failed to submit the documentary evidence, the Official Liquidator issue Form No.69 on 26.08.2019 rejecting the entire claim. The Copies of the letters are collectively attached herewith and marked as Annexure-B.*
>
> *5. It is submitted that the ex-directors of the company in liquidation have filed Statement of Affairs with the Official Liquidator. It is observed from the above said Statement of Affairs of the company in liquidation that there are no secured creditors.*

Further, that there are 48 equity shareholders holding 4819 equity shares of Rs.100/- each and 7 shareholders holding 100 deferred shares of Re.1/- each.

6. It is submitted that the Official Liquidator submits that pursuant to the order dated 29.11.2019 made in Company Application No.432 of 2019, the Official Liquidator has invited the claims of contributories of the company in liquidation by fixing the last date of submission of claims on 21.01.2020. The Official Liquidator has not received any claims from contributories of the company in liquidation.

7. It is submitted that as on the date, the fund position of the company in liquidation is Rs.71,97,149/-, and 24 years have passed from the date of winding up, there will be no scope of further recovery or payment of dividend in future. It is respectfully submitted 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.'

5. It is seen that balance in the hands of OL is a meagre Rs.74,82,544.75 (Rupees Seventy Four Lakhs Eighty Two Thousand Five Hundred and Forty Four and Seventy Five paise only) and in any event, there is a prayer for transfer of this balance into the appropriate public account in the Reserve Bank of India in accordance with Section 555(2) of said Act and to be noted, this is limb (d) of the prayer in the captioned application.

6. This Court, having perused said report, having heard learned Deputy OL, owing to the narrative thus far, particularly paragraphs 4 to 7 of said report (extracted and reproduced supra) is left with the considered opinion that it would be a penny wise pound foolish exercise to continue the winding up proceedings, it would be just and reasonable in the circumstances of this case to order dissolution of said company.

7. Therefore, captioned application and captioned main CP are ordered by acceding to prayer limbs (b) to (d) of captioned application. Said company i.e.,Industrial & Agricultural Engineering Company (Madras) Private Limited shall stand dissolved from the date of this order.

Captioned company application and captioned main CP are ordered on above terms. There shall be no order as to costs.

11.09.2020

gpa

M.SUNDAR.J.,

gpa

Company Application No.189 of 2020 in
C.P.No.34 of 1988 &
C.P.No.34 of 1988

11.09.2020