IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.11.2020

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THE HON'BLE MR.JUSTICE M.SUNDAR

Company Application No.233 of 2020
in
Company Petition.No.155 of 1996
and
Company Petition No.155 of 1996

The Official Liquidator,
High Court, Madras
as the Liquidator of
M/s.Unicorn Pharmaceuticals India Limited
(In Liquidation)
No.29, II Floor, Corporate Bhavan
Rajaji Salai, Chennai-600 001. .. Applicant

This application is preferred, under Section 460(4), 481 and 555 of the Companies Act, 1956 Read with Rules 9 and 11(b), 179 and 335 of the Companies (Court) Rules, 1959, prays

a) To take this report on record on the file of this Hon'ble Court:

b) The Official Liquidator may be permitted to declare and pay interest @ 4% on the admitted amount to the creditors in the list of creditors pursuant to Rule 179 of the Companies (Court) Rules, 1959 from the date of winding up order i.e., 07.03.1997 to 07.03.2006 (9 years) to the tune of Rs.31,72,812/-.

c) The Official Liquidator may be permitted to dispense with paper publication for declaration of dividend as there are only eight creditors.

d) The Official Liquidator may be permitted to open dividend account with Punjab National Bank, NSC Bose Road for a total amount of Rs.31,72,812/-

e) The Official Liquidator may be permitted to keep open the dividend account for three months from the date of opening the dividend account and then at its expiry to transfer the amount to the Government Account as required under Section 555(1) and (3) of the Companies Act, 1956 and read with Rule 335 of the Companies (Court) Rules, 1959.

f) The Official Liquidator may be permitted to defray the expenses related to the declaration of dividend from the funds of the company in liquidation.

g) 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.

h) To form an opinion that the Liquidator cannot proceed with the winding up after transferring the amount to the Government Account as required under Section 555(1) & (3) of the Companies Act, 1956 and that it is just and reasonable to make an order to dissolve Unicorn Pharmaceuticals India Limited under Section 481 of the Companies Act, 1956 consequently,

i) To grant permission to transfer the balance amount lying at the credit of the company in liquidation to the Company Liquidation Account as undistributed assets 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 present application and

e) To pass any such other orders that this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Applicant : Mr.Bavishetty Sridhar
Deputy Official Liquidator

COMMON ORDER

This common order will govern captioned company application i.e., Company Application No.233 of 2020 and captioned company petition i.e., 'Company Petition No.155 of 1996' which shall hereinafter be referred to as 'main CP' for the sake of convenience and clarity.

2. 'Unicorn Pharmaceuticals India Limited' [hereinafter 'said company' for the sake of brevity and clarity] is the company which has gone into liquidation in main CP, which is at the instance of a petitioning creditor.

3. Captioned application has been taken out by the 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of convenience and brevity] and Mr.Bavishetty Sridhar, learned Deputy Official Liquidator is before this Company Court in this web hearing on a video conferencing platform on behalf of OL. Prayer in captioned application is a multi-limbed prayer and the same as culled out from judges summons reads as follows:

> '*a) To take this report on record on the file of this Hon'ble Court:*
>
> *b) The Official Liquidator may be permitted to declare and pay interest @ 4% on the admitted amount to the creditors in the list of creditors pursuant to Rule 179 of the Companies (Court) Rules, 1959 from the date of winding up order i.e., 07.03.1997 to 07.03.2006 (9 years) to the tune of Rs.31,72,812/-.*
>
> *c) The Official Liquidator may be permitted to dispense with paper publication for declaration of dividend as there are only eight creditors.*
>
> *d) The Official Liquidator may be permitted to open dividend account with Punjab National Bank, NSC Bose Road for a total amount of Rs.31,72,812/-*
>
> *e) The Official Liquidator may be permitted to keep*

open the dividend account for three months from the date of opening the dividend account and then at its expiry to transfer the amount to the Government Account as required under Section 555(1) and (3) of the Companies Act, 1956 and read with Rule 335 of the Companies (Court) Rules, 1959.

f) The Official Liquidator may be permitted to defray the expenses related to the declaration of dividend from the funds of the company in liquidation.

g) 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.

h) To form an opinion that the Liquidator cannot proceed with the winding up after transferring the amount to the Government Account as required under Section 555(1) & (3) of the Companies Act, 1956 and that it is just and reasonable to make an order to dissolve Unicorn Pharmaceuticals India Limited under Section 481 of the Companies Act, 1956 consequently,

i) To grant permission to transfer the balance amount lying at the credit of the company in liquidation to the Company Liquidation Account as undistributed assets 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 present application and

e) To pass any such other orders that this Hon'ble

Court may deem fit and proper in the circumstances of the case.'

4. Learned Deputy Official Liquidator, submits that a 'report of OL dated 28.09.2020' [hereinafter 'said report' for the sake of brevity] together with annexures has been filed in support of captioned application.

5. Learned Deputy Official Liquidator, adverting to proceedings made in the earlier listing on 16.10.2020, submits that a further report of OL being a 'report dated 28.10.2020' has since been filed giving the list of creditors. This shall hereinafter be referred to as 'further report' for the sake of convenience and clarity.

6. Adverting to said report, learned Deputy Official Liquidator submits that in and by an order dated 07.03.1997 made by this Company Court, OL was appointed as provisional liquidator qua said company with further direction to take charge of all the assets and effects of said company. Adverting to said report, it is also submitted that pursuant to

the aforementioned order of this Company Court, OL took possession of the assets of said company retained the factory premises of said company and sale of some movable assets, machineries and immovable made was also made pursuant to order dated 20.09.2002 made by this Company Court in Company Application No.878 of 2002. It is submitted that thereafter, the manner in which the winding up proceedings unfurled in accordance with 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) has been articulated in said report from paragraph No.3 onwards. This Court considers it appropriate to extract paragraph Nos. 3 to 9 of said report which read as follows:

> '*3. It is submitted that pursuant to the directions of this Hon'ble Court order dated 06.06.2007 in C.A.No.1334 of 2007, the Official Liquidator had called for claims from the creditors of the company by effecting paper publication in the newspapers viz., "The New Indian Express" and "Makkal Kural".*
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> *4. It is submitted that M/s.Vijaya Bank, Egmore, Chennai is the only secured creditor of the company in liquidation has not filed their claim affidavit in Form No.66 with the Official Liquidator, the Official Liquidator has issued a letter dated 05.06.2015 to the Vijaya Bank advised them to appear before the Official Liquidator to establish*

their status as a secured creditor with the support of relevant documents. The said letter was duly acknowledged by Vijaya Bank and so far they have not submitted any claim with the Official Liquidator.

5. It is submitted that in response to the paper publication, Official Liquidator has received 25 claims from various creditors of the company in liquidation. However, the Official Liquidator has adjudicated the said 25 claims based on the original documentary evidences/proofs submitted by them. Out of 25 claims, 8 claims have been admitted to the tune of Rs.88,13,366/- and the remaining 17 claims were rejected as per the provisions of Law. Further the Official Liquidator has filed the list of creditors in Form No.71 before this Hon'ble Court and also filed an application seeking directions to declare and pay dividend at 100% to all the creditors in the Form No.71 to the tune of Rs.88,13,366/-. This Hon'ble Court upon hearing the said application in C.A.No.301/2019 on 30.08.2019 permitted the Official Liquidator to declare and pay dividend @ 100% on the admitted amount to the creditors in the Form No.71. In compliance with the said directions the Official Liquidator has declared and paid dividend @ 100% to the creditors in the Form No.71. A copy of Form No.71 is enclosed and marked as Annexure-B to this report.

6. That, as on date funds position of the company (in Prov. Liquidation) is as follows:

S.No.	Description	Amount in Rs.
1.	Bank Balance	76060.90
2.	Investment	3375000.00
	Total	3451060.90

7. The Official Liquidator submits that after making payment of dividend @ 100 paise in a rupee to the creditors in Form No.71, there being surplus a fund available to the credit of the company in liquidation as stated supra. Pursuant to Rule 179 of the Companies (Court) Rules, 1959, the Official Liquidator may be permitted to pay the interest @ 4% from the date of winding up order i.e.,07.03.1997 to 07.03.2006 (9 years) on the admitted amount to the claimants whose proofs have been admitted in the Form No.71 to the tune of Rs.31,72,812/-. The details of the amount to be declared to the creditors of the company are given below:

SI. No.1	Claim No.	Name & Address of the Claimant	Amount claimed	Amount admitted	Proposed interest @ 4% from the date of winding up order i.e. 07.03.1997 to 07.03.2006 (9 years) to be paid
1	4	The EPF, Chennai-14 No.20, Royapettah High Road, Chennai-14	302631.5	290500	104580
2	7	M/s.Vardhaman Pharmaceuticals & Co.,	10850	10850	3906

		A.I.V.Towers, 2nd Floor, 74, Devaraja Mudalai Street, Park Town, Chennai-3.			
3	8	Sri.Baratharaj S/o.S.B.Raj, No.7, Vaibav Bay View Apartment, Besant Nagar, Chennai-90	462609	117000	42120
4	9	Dy. Commissioner of IT, CC IV(7) Karnamai Building, 5th Floor, No.611, Anna Salai, Chennai-6	188607	194607	70059
5	19	M/s.Abirami Financial Services India (P) Limited, "Capital Palace" No.50, South Boag Road, T.Nagar, Chennai-17.	2553627	1905384	685938
6	20	M/s.NICCO UCO Financial Services Limited, No.2, Hare Street, Kolkatta - 700 001	2210895	1607825	578817
7	21	T.Jayashree Reddy, S/o.Sri.T.S.Kuppi Reddy, No.10, Palayakara Street, First Lane, Ayanavaram,	56000	25200	9072

		Chennai-600 023			
8	*25*	*M/s.Five Star Business Credits Limited, No.23, Outer Circular Road, Kilpauk Garden Colony, Kilpauk, Chennai-10*	*4672000*	*4662000*	*1678320*
		Total		*8813366*	*3172812*

8. The Official Liquidator submits that he may be permitted to dispense with publication of advertisement for notice of declaration of dividend in newspapers in Form No.137 as required under Rule 276 of the Companies (Court) Rules, 1959 and also he may be permitted to issue dividend notices in Form No.138.

9. It is further submitted that after making payment of 4% interest to the creditors in Form No.71 pursuant to Rule 179 of the Companies (Court) Rules, 1959, there will no 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.'

7. Paragraph No.4 of further report is of relevance and the same reads as follows:

'4. That after making payment of dividend @ 100 paise in a rupee to the creditors in Form No.71, there being a

surplus fund available to the credit of the company in liquidation. Pursuant to Rule 179 of the Companies (Court) Rules, 1959, the Official Liquidator may be permitted to pay the interest @ 4% from the date of winding up order i.e., 07.03.1997 to 07.03.2006 (9 years) on the admitted amount to the claimants whose proofs have been admitted in the Form No.71 to the tune of Rs.31,72,812/-. The list of details of the creditors to whom payment to be made in enclosed and marked as Annexure-A to this report.'

8. A scanned reproduction of list of creditors which is an annexure to further report is as follows:

ANNEXURE - A

LIST OF DETAILS OF THE CREDITORS TO WHOM PAYMENT TO BE MADE

Sl.No	Claim No	Name & Address of the claimant	Amount claimed	Amount admitted	Proposed Interest @4% from the date of winding up order i.e.07.03.1997 to 07.03.2006 (9 years) to be paid
1	4	The EPF, Chennai - 14 No.20, Royapettah High Road, Chennai - 14	[illegible]	290500	104580
2	5	M/s. Vardhaman Pharmaceuticals & Co., A.L.V.Towers, 2nd Floor 74, Devaraja Mudalai Street, Park Town, Chennai 3	10850	10850	[illegible]
3	8	Sri. Barathara S/o. S.B. Raj, No.7, Vaibav, Bay View Apartment Besant Nagar, Chennai-90	4636019	117000	42120
4	6	Dy.Commissioner of CT, CC IV(7), Karumuthu Building, 5th Floor, No.[illegible]1, Anna Salai, Chennai 6	[illegible]	194607	70059
5	19	M/s. [illegible] Financial Services India (P) Limited, "Capital Palace" No.50, South Boag Road, T. Nagar, Chennai - 17	3553627	1905[illegible]	685938
6	20	M/s. NICCO UCO Financial Services Limited, No.2, Hare Street, Kolkata - 700 001	2210895	1607825	578817

Deputy Official Liquidator
High Court, Madras

7	21	T. Jayashree Reddy, S/o. Sri. T.S. Kuppi Reddy, No.10, Pulayakaru Street, First Lane, Ayanavaram Chennai - 600 023.	56500	25200	9073
8	25	M/s. Five Star Business Credits Limited, No.23, Outer Circular Road, Kilpauk Garden Colony, Kilpauk, Chennai - 10	4672000	4662000	1678320
		TOTAL		8813366	3172812

DEPUTY OFFICIAL LIQUIDATOR,
HIGH COURT, MADRAS.

9. To be noted, further report is relatable to prayer limb (d) in the captioned application.

10. This Court, having perused said report, further report, having heard learned Deputy Official Liquidator, is left with the considered view that the winding up proceedings have served its purpose subject only to limb (d) being complied with within a specified time frame. Learned Deputy Official Liquidator submits that limb (d) prayer exercise will be completed within eight weeks from the date of this order. This submission is recorded.

11. In the light of the narrative thus far, this Company Court is left with the considered opinion that it is just and reasonable in the facts and circumstances of this case to order dissolution of said company.

12. The following orders are passed:

(a) Captioned company application is ordered by acceding to prayer limbs (b), (c), and (e) to (i).

(b) With regard to prayer limb (d), the same shall be completed by paying into the dividend account qua eight creditors set out in further report dated 28.10.2020 within eight weeks from the date of this order.

(c) In captioned main CP, in the light of the opinion that has been arrived at by this Court, qua dissolution of said company, which has been alluded to and articulated supra, said company will stand dissolved.

M.SUNDAR. J

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

20.11.2020

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in
CP.No.155 of 1996
and
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