Company Application No.279 of 2020
in
Company Petition No.101 of 1994

M.SUNDAR, J.

Captioned Company Application has been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) and Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' ('Dy. OL' for the sake of brevity) is before me in this web hearing on a video conferencing platform. There is a multi limbed prayer in the captioned application and that multi limbed prayer as culled out from the judges summons is as follows:

> 'a.Take this report on record,
>
> b.Approve the Fifth Supplementary List of Creditors submitted by Official Liquidator in Form.No.71 admitted for a total amount of Rs.5,15,320/- in respect of the Claim of Income Tax, enclosed as 'Annexure – A' to this report,
>
> c.Permit the Official Liquidator to declare and disburse dividend @ 100 paise in a rupee on the admitted amount to Income Tax Department submitted in 5th supplementary list of creditors amounting to **Rs.5,15,320/-** as mentioned in para 8 of this report.
>
> d.Permit the Official Liquidator to declare and disburse interest

@ 4% on the admitted amount to EPFO, Secured and Workmen creditor amounting to **Rs.7,21,24,410/-** as mentioned in para 10 of this report.

e.Permit the Official Liquidator to declare and disburse interest @ 23% out of the interest calculated @4% from the date of winding up to the date of final declaration of dividend which arrives to the tune of **Rs.26,63,154/-** to Employees, Preferential and Ordinary Creditors as mentioned in para 11 of this report.

f.Permit the Official Liquidator to open a separate dividend account for **Rs.7,53,02,884/-** with Punjab National Bank, N.S.C. Bose Road, Chennai for disbursement of dividend to 144 Creditors as per Annexures B & C to this report.

g.Permit the Official Liquidator to keep the dividend account open for six months from the date of opening and to transfer the unpaid amounts, if any, to the account of Registrar of Companies, Tamilnadu, Chennai as per the provisions of section 555(1) and (3) of the Companies Act, 1956,

h.Permit the Official Liquidator to dispense with causing publication regarding declaration / disbursement of dividend, since the disbursement is to be made interest to 144 creditors only,

i.Permit the Official Liquidator to meet the incidental expenses in connection with the declaration/disbursement of dividend from the funds of the company in liquidation, and

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

2 Aforementioned Company Petition No.101 of 1994 is more than quarter century old in this Court and it is clearly a vintage matter. Be that as it may, 'Indag Products Limited' ('said company' for the sake of brevity) is the company which has gone into liquidation in the main company petition. To be noted, main company petition is at the instance of a petitioning creditor. Learned Dy. OL submits that a 'Report of OL dated 20.10.2020' ('said report' for the sake of brevity) has been filed in support of the captioned application. Adverting to said report, learned Dy.OL submits that OL was appointed as provisional liquidator qua said company vide order dated 25.02.1997 made by this company court in the main company petition. Thereafter, the winding up process or in other words, liquidation proceedings unfurled in accordance with 'The Companies Act, 1956' ('said Act' for brevity) and 'The Companies (Court) Rules, 1959' ('said Rules' for brevity). The trajectory of winding up proceedings is set out in said report. Paragraphs 2 to 11 of said report which are most relevant qua multi-limbed prayer in captioned application read as follows:

> '2.That by an order dated 25.02.1997 in Company Petition No.101 of 1994 this Hon'ble Court wound up Indag Products Limited and appointed the Official Liquidator attached to this

Hon'ble Court as the Provisional Liquidator with directions to take charge of the assets and effects of the company.

3.That pursuant to the orders of this Hon'ble Court the Official Liquidator took possession of the property of the Company in liquidation situated at Cuddalore. This Hon'ble Court through public auction sold Plant / Machinery / movables for Rs.90,00,000/- and immovable assets for Rs.16,50,00,000/-.

4.That the Official Liquidator, in compliance of the orders of this Hon'ble Court dated 01.12.2004 made in Company Application No.1543 of 2004 in C.P.No.101 of 1994, invited claims from the creditors in terms of Rule 148 of the Companies (Court) Rules, 1959 by causing notice in Form No.63 in “The New Indian Express” and “Malai Malar” on 07.01.2005 by fixing the last date for submission of claims as 31.1.2005.

5.That it is submitted that in response to the notice caused in Form No.63, the following claims were submitted by various categories of creditors as detailed hereunder:

Sl. No.	Name of Creditors	No. of claims	Amount Claimed
1.	Secured	3	16,61,26,565.41
2.	Workmen	129	1,06,36,650.79
3.	Preferential	7	2,07,49,232.00
4.	Employees	2	4,71,560.00
5.	Ordinary	6	14,92,39,910.45
6.	Debenture	3	15,400.00
7.	Duplicate	2	50,36,502.00
8.	Claims without name/address/amount	7	---
	Total	**159**	**35,22,75,820.65**

6.That out of 159 claims the Official Liquidator has adjudicated and admitted 143 claims and rejected 2 claims. The details are as follows:

Sl. No.	Name of Creditors	No. of claims admitted	Amount Admitted Rs.	No. of claims rejected
1.	Secured	3	7,82,63,812/-	-
2.	Workmen	129	73,96,990/-	-
3.	Preferential	5	1,11,95,930/-	1
4.	Employees	2	2,21,880/-	-
5.	Ordinary	4	14,74,045/-	1
	GRAND TOTAL	**143**	**9,85,52,657/-**	**2**

7. That the Official Liquidator so far filed following 5 lists of creditors before this Hon'ble Court, on various dates in the prescribed Form No.71 in terms of Rule 167 of the Companies (Court) Rules and as directed by this Hon'ble Court, already disbursed dividend @ 100 paise in a rupee to 143 creditors. The details of Form No.71 submitted till date are as follows.

SI. No.	List of creditors filed in Form 71	No. of claims	Nature of claims	Admitted amount	Admitted amount already paid as per order of the Hon'ble High Court, Madras
1	Certified list of creditors	122	Workmen Creditors	69,21,271/-	Dated 7.8.2007 & 25.9.2007 in C.A.No.1981/ 2007 & 2415/2007
2	1st Supplementary list	1	EPF Claim	2,72,718/-	Dated 25.9.2007 in C.A.No.2415 /2007
3	2nd	2	Workmen	1,09,951/-	Dated 9.1.2009

	Supplementary list		creditors		in C.A.No.38/2009
4	3rd Supplementary	4	Workmen creditors	2,78,673/-	Dated 13.12.2019 in C.A.No.448/ 2019
5	4th Supplementary list	14	Secured (3)/ Workmen (1)/ Govt.(4), Employee (2) and Ordinary(4) creditors	9,09,70,044/-	Dated 13.12.2019 in C.A.No.448/ 2019
	Grand Total	**143**		**9,85,52,657/-**	

8. That subsequently, the Official Liquidator has admitted one claim submitted by Income Tax Department for a sum of Rs.5,15,320/- and rejected one claim of The Specified Undertaking of the Unit Trust of India (SUUTI) for non-submission of documentary evidence. The Official Liquidator is now filing the Fifth Supplementary List of Creditor in Form No.71 in terms of Rule 167 of the Companies (Court) Rules, 1959 along with this report as **Annexure-A**, for approval of this Hon'ble Court.

9. That the funds position of the company in liquidation as on 18.09.2020 is as follows:-

Cash	:	---
Bank	:	60,459.00
Investment	:	7,53,00,000.00

Total	:	7,53,60,459.00
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10. That the subject to the approval of this Hon'ble Court, the Official Liquidator proposes to declare and disburse dividend @ 100 paise in a rupee to Income Tax Department for **Rs.5,15,320/-** as per the 5th supplementary list of creditors. That after the said disbursement to Income Tax, funds available with Official Liquidator will be Rs.7,48,45,139/-. Since sufficient funds are available, subject to approval of this Hon'ble Court the Official Liquidator proposes to declare and disburse 4% interest on the admitted amount to EPFO, Secured & Workmen Creditors in terms of Rule 179 of the Companies (Court) Rules from 25.02.1997, i.e., from the date of winding up till the date of final declaration of dividend which is calculated and arrived at **Rs.7,21,24,410/-**. The list of creditors to whom the proposed interest is to be disbursed is enclosed as **Annexure-B** for approval of this Hon'ble Court.

11. That after the disbursement stated above in para 10, from the remaining funds available, it is proposed to disburse to Employees/preferential/Ordinary Creditors @ 23% out of calculated 4% interest per annum on the admitted amount from the date of winding up to the date of final declaration of dividend which arrives to the tune of **Rs.26,63,154/-**. The calculation is annexed with this report as **Annexure-C**, for perusal and approval of this Hon'ble Court.'

3 Adverting to said report, learned Dy.OL submits that full payment of all claims admitted to proof qua creditors has been made, there is a surplus thereafter and therefore, interest from the date of

winding up order at 4% per annum is sought to be paid. To be noted, this is effectively under Rule 179 of said rules, but this rule has not been mentioned in the judges summons. Be that as it may, there is a mention about this rule in paragraph 10 of said report (paragraph 10 forms part of the extracted reproduction supra). In any event, power under rule 179 is available to this company Court.

4 Learned Dy. OL also impresses upon this court that more than 150 workmen would also stand to benefit in addition to other creditors. This submission is made by referring to Annexure-B (list of creditors) to said report.

5 This company court, having perused said report, having heard the submissions of learned Dy.OL, is left with the considered view that it would be appropriate to order the captioned application by acceding to the prayer limbs (b) to (i) in the judges summons. The captioned application is ordered on above terms. There shall be no order as to costs.

04.12.2020

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M.SUNDAR, J.

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