IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

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THE HONOURABLE MR. JUSTICE M.SUNDAR

Comp.A.No.627 of 2017

in

C.P.No.130 of 1998

and

C.P.No.130 of 1998

C.P.No.130 of 1998

1.S.D.Nagarajan
2. S.Viswanathan ... petitioners

..vs..

Sahe Cements Ltd., ... Respondent

Comp.A.No.627 of 2017

The Official Liquidator
High Court, Madras as the Liquidator of
M/s.Sahe Cements Limited
(in liquidation) ... Applicant

Company Petition filed under Sections 433(e) & (f) and 434(1)(a) of the Companies Act 1 of 1956 and Rule 95 of the Companies (Court) Rules, 1959 to pass an order that the respondent company, Sahe Cements Ltd., may be wound up under the provisions of Companies Act 1 of 1956 and order that the cost of petition may come from and out of the common funds of the company.

Company Application filed under Section 460(4) of the Companies Act, 1956 read with Rules 9, 11(b) of the Companies (Court) Rules, 1959,

a) To take this report on record.

b). To hear the Company Application No.310 of 2003 & 1656 of 2005 along with the subject application and pass necessary orders.

c). To dispense with the audit of accounts, since there are no transactions in the company's account during the present filing period.

d) To grant permission to deposit the unspent money in the company's credit, after meeting all incidental expenses of the winding up process, to the Undistributed Assets Account.

e) To form an opinion that the liquidator cannot proceed with the winding up and that it is just and reasonable in the circumstances of the case to order for the dissolution of the company and

f) Pass such order/orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator

COMMON ORDER

This common order will govern captioned Company Application i.e., Company Application No.627 of 2017 and captioned Company Petition i.e., Company Petition No.130 of 1998 which shall hereinafter be referred to as 'main CP' for the sake of convenience and clarity.

2. The main CP is of the year 1998 and therefore, it has been pending in this Court for over two decades and two years. Twenty two years to be precise. The main CP is clearly a vintage matter.

3. Under the aforesaid circumstances, captioned application has been taken out by the 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of brevity] and Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' [hereinafter 'Deputy OL' for the sake of clarity] is before me in this web hearing on a video conferencing platform on behalf of OL. To be noted, captioned application itself is 3 years old in this Court as it has been taken out in May of 2017.

4. In the aforementioned backdrop, learned Deputy OL makes two submissions which are of significance. One submission is, a request to treat captioned application as one under Section 481 of 'The Companies Act, 1956' [hereinafter 'said Act' for the sake of brevity] considering the nature of prayer i.e., dissolution of company which is

being wound up in main CP. This request is acceded to. Second submission on behalf of learned Deputy OL is with regard to Company Application Nos.310 of 2003 and 1656 of 2005 which have been taken out by OL in main CP *inter-alia* for non-filing of statement of affairs and misfeasance. Adverting to one of the limbs of prayers in captioned application, learned Deputy OL submits that both these applications can now be closed as unnecessary. This submission is also recorded and these applications also will now stand disposed of vide this order.

5. 'Sahe Cements Limited' [hereinafter 'said company' for the sake of brevity, convenience and clarity] is the company which has gone into liquidation in this vintage main CP.

6. Learned Deputy OL, adverting to report of OL dated 26.05.2017 [hereinafter 'said report' for the sake of brevity] submits that said company was ordered to be wound up in and by an order made by this Company Court way back on 14.06.2001 in main CP. To be noted, said report has been filed in support of captioned application. Post aforementioned 14.06.2001 order of this Company Court, the manner in

which winding up process or in other words liquidation process qua said company unfurled (in accordance with said Act and said Rules) has been captured in paragraph Nos.2 to 6 of said report is learned Deputy OL's say. Paragraph Nos.2 to 6 of said report read as follows:

'2. That the Official Liquidator submits that consequently, he took possession of the assets and effect of the company i.e., movable and immovable property located at Thottakudi Village, Maruthakulam, Nanguneri Taluk and those assets were sold and realised sale proceeds to the extent of 1,24,00,000/- with the consent of the Hon'ble High Court, Madras vide its order dated 25.01.2008. A copy of the Hon'ble High Court vide its order dated 25.01.2008. A copy of the Hon'ble High Court vide its order dated 25.01.2008 made in Company Application No.3099/2007 is attached herewith and marked as Annexure-"A".

3. The Official Liquidator has called for claims and no claims from the workmen creditors falling under the purview of Section 529A of the Companies Act, 1956 was received by the Official Liquidator. However, he had received 4 claims, which were adjudicated and a dividend of 100 paise in rupee was paid as per orders in C.A.No.2535/2008 dated 03.11.2008. The details of the claimants and its payments are mentioned below:

S. No.	*Name and Nature of creditors*	*Amount claimed Rs*	*Amount Admitted Rs.*	*Amount paid @ 100 paise in a rupee Rs.*
1.	*The Tamil Nadu Industrial Investment*	*62,86,194/-*	*62,86,194/-*	*62,86,194/-*

	Corporation Ltd., (Secured Creditor)			
2.	*The EPF Organisation Tirunelveli (Priority creditors U/s.529-A)*	*9,18,045/-*	*3,03,437/-*	*3,03,407/-*
3.	*The CTO, Palayamkottai (priority creditors U/s.530)*	*41,65,625/-*	*35,06,073/-*	*35,06,073/-*
4.	*K.Meenakshi (FD) 2Nos. Rs.50,000/- + Rs.20,000/- (ordinary)*	*70,000/-*	*70,000/-*	*70,000/-*

Apart from the payment, Official Liquidator has paid post Liquidation Expenses such as Watch and Ward and Valuation fees to the secured creditors i.e.,TIIC for Rs.6,10,596/- as per the orders of the Hon'ble High Court, Madras in its order dated 03.11.2008 made in Company Application No.2535 of 2008.

4. That the Ex-Directors of the company in liquidation has not filed statement of affairs. In this regard, the Official Liquidator has filed in Company Application No.310 of 2003 u/s.454(5A) of the Companies Act, 1956 and the same is pending before the Hon'ble High Court, Madras.

5. That the Official Liquidator has also filed company application No.1656/2005 before the Hon'ble High Court for the misfeasance under Section 542 & 543 of the Companies Act, 1956 and this Hon'ble Court has ordered a cross examination by respondent and the same is pending before the Hon'ble High Court, Madras.

6. That as on date the funds available with Official Liquidator is only Rs.6,34,210.22 and 16 years have passed since *the date of winding up order and that there are no further assets to be sold or funds to be realized no fruitful would be served by allowing this company to continue its existence rather it would be more appropriate to dissolve the company and deposit the remaining amount in the Undistributed Assets Account under Section 555(1) of the Companies Act, 1956 after meeting the incidental expenses of dissolution.'*

7. Adverting to Annexure-B to said report, learned Deputy OL submits that the fund position of said company is that OL has a balance of Rs.6,34,210/-. Though there is no specific prayer in this regard, learned Deputy OL submits that after incurring permissible expenses the balance from and out of this money now in hand will be deposited in the appropriate public account of Reserve Bank of India in accordance with Section 555(2) of said Act. This submission is recorded.

8. This Court having perused said report, having heard learned Deputy OL and more particularly, his say that it would be a penny wise pound foolish exercise to keep main CP pending, this Company Court is of the considered opinion that in the facts and circumstances of this case, it would be just and reasonable to order dissolution of said company.

9. Therefore, the following order is passed:

(a) Company Application Nos.310 of 2003 and 1656 of 2005 in main CP will stand dismissed as withdrawn vide this order.

(b) Audit of accounts of said company are dispensed with as there are no transactions in the company's accounts during the filing period.

(c) After incurring permissible expenses *inter-alia* under the Companies Act, 1956 and the Companies (Court) Rules, 1959 (from and out of Rs.6,34,210.22 now in hand) the balance shall be deposited into appropriate public account of Reserve Bank of India by OL *inter-alia* in accordance with Sub-Section (2) of Section 555 of the Companies Act, 1956 and the Companies (Court) Rules, 1959.

(d) Sahe Cements Limited will stand dissolved from the date of this order owing to the opinion of this Court set out supra.

(e) The Official Liquidator stands discharged.

10. Captioned Application i.e.,Company Application No.627 of 2017, Company Application Nos.310 of 2003 & 1656 of 2005 and captioned main CP being C.P.No.130 of 1998 stand disposed of in the aforesaid manner. There shall be no order as to costs.

11.12.2020

Speaking/Non-speaking order
Index : Yes / No
Internet : Yes / No

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M.SUNDAR.J.,

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