

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.461 of 2019

in

C.P.No.65 of 2015

&

C.P.No.65 of 2015

The Official Liquidator
High Court Madras
as the Provisional Liquidator
of M/s. Alacrity Electronics Ltd.,

... Applicant

Application filed under Section 481 of the Companies Act, 1956 read with Rules 9, 11(b) of Company (Court) Rules, 1959 to take the report on record on the file of this Court, to permit the Official Liquidator to file the final account without audit, 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 the company as envisaged under Section 481 of the Companies Act, 1956 and to grant permission to transfer an amount lying at the credit of the company in liquidation to the undistributed Assets of the company in liquidation Account under

Section 555 of the Companies Act, 1956 after meeting al the incidental expense related to the winding up proceedings of the subject company.

For Petitioner : Mr.Bavishetty Sridhar
Deputy Official Liquidator

ORDER

Read this in conjunction with and in continuation of earlier proceedings dated 24.07.2020 made in C.A.No.461 of 2019.

2. In the web-hearing on a video-conferencing platform today, Mr.Adarsh Subramanian, learned counsel representing the counsel on record for original petitioning creditor in the main Company Petition and Mr.Bavishetty Sridhar, learned 'Deputy Official Liquidator' ('Deputy OL' for brevity) representing the 'Official Liquidator attached to this Court' ('OL' for brevity) are before me.

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3.Adverting to earlier proceedings dated 24.07.2020, learned counsel for original petitioning creditor submits that they have since got instructions from the petitioners and they do not have nothing to say on the report of OL dated 31.10.2019.

4.This Court now proceeds to examine the report dated 31.10.2019 filed by OL.

5.It comes to light that the company under liquidation is 'Alacrity Electronics Limited' (hereinafter 'said Company' for brevity). This Court, vide order dated 03.11.2016 made in the main CP, appointed OL as the provisional Liquidator of said Company and directed OL to take charge of the assets and effects of the Company. Thereafter, OL has taken charge of the assets and has also taken Statement of Affairs from the Ex-Directors. It has been mentioned in the report of the OL before this Court that the records of the said Company were taken charge of and Statement of Affairs filed by the Ex-Directors of said Company was also scrutinized. This part of the exercise of OL is articulated in Paragraphs 5 and 6 of the report, which read as follows:

'5.It is submitted that as per the Statement of Affairs filed by the Ex-Director of the company in liquidation a company viz. M/s.Atandra Power Solution (P) Limited is shown as a debtor for a sum of Rs.1,08,941/- under Trade Debtors.

6. It is submitted that the Official Liquidator has issued demand notices on 23/06/2017 and 06/10/2017 to the said company for making payment of Rs.1,08,941/- together with interest @ 18% p.a from 03/11/2016 to till the date of final settlement. Both the letters were acknowledged by the said

company. However neither reply nor payment was received from the said company. Therefore, the Official Liquidator has filed an application u/s.446(2) of the Companies Act, 1956 to direct the said company to pay a sum of Rs.1,08,941/- with an interest @18% from 03/11/2016 to till date of entire settlement.

6. It also comes to light from the report of OL that the funds available qua said company are very meager and there will be no purpose in allowing the company to continue in existence. It would be rather prudent and more appropriate to dissolve the said Company. This aspect of the matter is articulated in Paragraphs 11 and 12 of the report of the OL, which read as follows:

'11. It is submitted that the funds position of the company in liquidation is submitted in the final account attached herewith. Since the available funds are very meager, claims from the creditors are not called for and there will not be any further recovery or payment to made by the company. There is no purpose to allow the company to continue its existence, rather it would be more appropriate to dissolve the company. It is submitted that the balance amount lying at the credit of the company in liquidation is to be transferred to the Undistributed Assets Account u/s 555 of the Companies Act, 1956 after meeting all the expenses related to the winding up proceedings including the incidental expenses of present application.

12. The Official Liquidator is to be permitted to file the Final account without audit of the same as there will be no further

expenses to be incurred in the company in liquidation. Final account is attached and marked herewith as “Annexure-B”.

7. Various limbs of prayer (excluding the residuary limb of prayer) made by OL are articulated in Paragraph 14, which reads as follows:

'14. In view of the above circumstances, it is humbly prays for the following:

- 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.*
- 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 the company as envisaged under Section 481 of the Companies Act, 1956.*
- d. To grant permission to transfer an amount lying at the credit of the company in liquidation to the undistributed Assets of the company in liquidation Account under Section 555 of the Companies Act, 1956 after meeting all the incidental expense related to the winding up proceedings of the subject company.'*

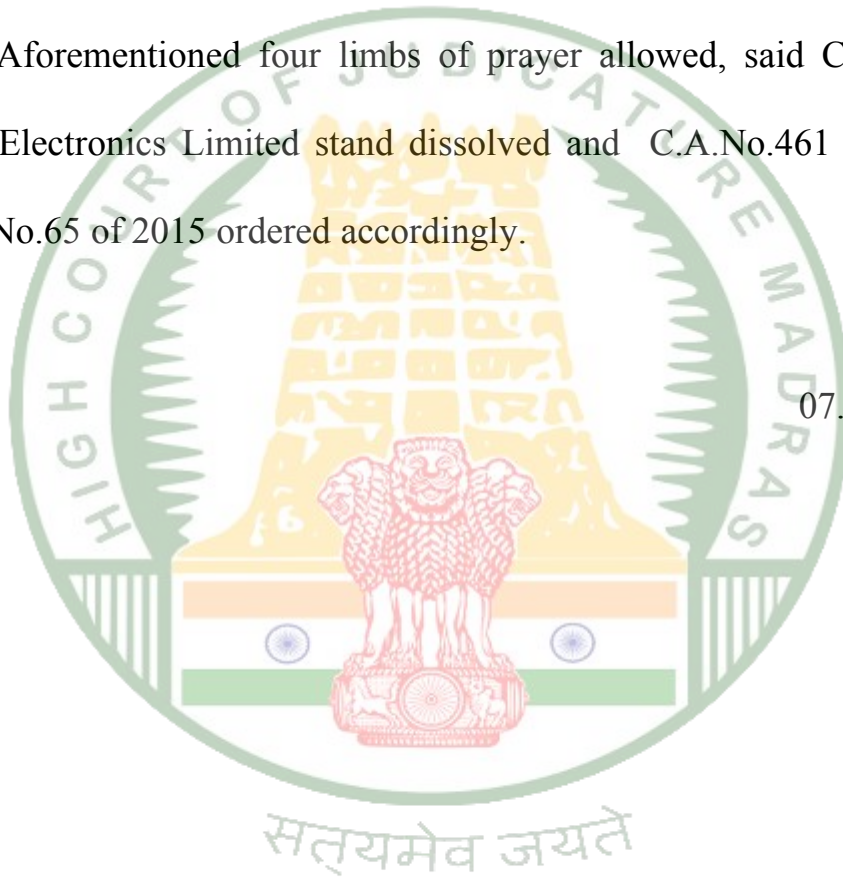
8. Having perused the report of OL, having taken note of the stated position of the original petitioning creditors that they do not have anything to say on the report of the OL and having noticed that the funds

are so meager that might ultimately become a penny wise pound foolish exercise, this Court is left with the considered view that all four limbs of the prayers, deserve to be acceded to.

Aforementioned four limbs of prayer allowed, said Company Alacrity Electronics Limited stand dissolved and C.A.No.461 of 2019 and C.P.No.65 of 2015 ordered accordingly.

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M.SUNDAR.J.,

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