THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 66 of 2019

ORDER:

This Application has been taken out under Sections 457(1) and 460 (4) & (5) of the Companies Act, 1956 read with Rules 275, 276 and 290 of the Companies (Court) Rules, 1959 for the following reliefs:

I. Permit the Official Liquidator to pay the priority expenses of Rs.76,57,337/- as admitted in Form No. 69 dated 22.07.2019.
II. Permit the Official Liquidator to declare and disburse the dividend @ 12.69 paise in a rupee of admitted amounts to M/s TATA Capital Ltd., after deducting the interim payment which would work out to Rs.1,47,40,876/- as per Annexure-F.
III. Permit the Official Liquidator to dispense with the publication of notice of declaration of dividend in newspapers.
IV. Permit the Official Liquidator to send individual notice of dividend inform No. 138.
V. Permit the Official Liquidator to open separate dividend account with Punjab National Bank, Bank Street, Koti, Hyderabad and transfer an amount of RS.1,47,40,876/- and keep in force for a period of 3 months.
VI. Permit the Official Liquidator to transfer the unpaid dividend, if any in the dividend account after expiry of 3 (three) months period into the Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1955.
VII. Permit the Official Liquidator to take all necessary action and steps which are incidental to declaration and payment of divided and to effectively implement the orders of this Hon"ble Court in that regard.
VIII. Order that the cost of this Application do come out of the assets of the company.

Vide order dated 30.08.2010 in Company Petition No. 151 of 2009, the applicant company was directed to be wound up. During the said process, the Official Liquidator sold the assets of the company situated at Kuntloor and realised Rs.3,73,05,313/- and thereafter, invited claims from the creditors of the company duly publishing notice in newspapers. In response to the said notice, six claims were received from the creditors of the company and the same were adjudicated. Being aggrieved with the said order, M/s TATA Capital Ltd., lone secured creditor, filed Company Appeal No. 9 of 2015 which was disposed of by order dated

06.10.2015, setting aside the adjudication order to the extent of rejecting the balance claim of Rs.12,29,75,483/-. Thereafter, the said TATA Capital Limited had filed Company Application No. 195 of 2016 to release sale consideration of Rs.1,58,05,312/- along with interest. The said Application was allowed by order dated 10.03.2016 and Rs.1,76,13,865/- was paid to them. Pursuant to the order dated 06.10.2015, the Official Liquidator had sold the balance secured asset for Rs.2.15 crore. Then, M/s TATA Capital Ltd. had filed Company Application No. 630 of 2018 to release Rs.2.15 crore along with accrued interest on the same amount. Pursuant to the order dated 19.06.2019, the claim was adjudicated and admitted to the extent of Rs.25,49,62,494/- as secured debt and accordingly, issued Form No. 69 dated 22.07.2019. It is stated that since all the available claims were adjudicated and no appeals are pending, as per Rule 167 of the 1959 Rules, Certificate in Form No. 71 should have been filed before this Court within three months from the date fixed for submission of proof, but in this case, there was delay of 1514 days in filing the said Certificate due to the appeal filed by M/s TATA Capital Limited.

Heard learned counsel for the applicant.

Since it is stated that all the claims were adjudicated and that the delay in filing the Certificate in Form No. 71 is due to the time involved in adjudicating the Appeal filed by M/s TATA Capital Limited, this Application is ordered.

CHALLA KODANDA RAM, J

02nd January 2020

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