IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2021

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

Company Application No.183 of 2020
in
Company Petition No.274 of 2004
&
Company Petition No.274 of 2004

The Official Liquidator
Madras as the Liquidator of
Alpha Amins Private Limited (in Liqn.) ... Applicant

For Applicant : Mr.Bavisetty Sridhar
Deputy Official Liquidator

- - - -

COMMON ORDER

This common order will dispose of captioned application i.e., Comp.A.No.182 of 2020 and captioned Company Petition i.e., 'C.P.No.274 of 2004' (hereinafter 'main CP' for the sake of brevity).

2. 'Alpha Amins Private Limited' (hereinafter 'said Company' for the sake of brevity) is the company ordered to be wound up by this Court

in and by an order dated 05.02.2009 made in main CP. Thereafter, the manner in which winding up proceedings unfurled in accordance with 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) and 'The Companies (Court) Rules, 1959' (hereinafter 'said Rules' for the sake of brevity) is captured in report dated 07.01.2020 being a report filed by the ' Official Liquidator attached to this Court' ('OL' for the sake of brevity) and this report shall hereinafter be referred to as 'said report' for the sake of convenience.

3. Before this Company Court proceeds further, it is deemed appropriate to extract and reproduce the multi-limbed prayer in the captioned application. Multi-limbed prayer in the captioned application as can be culled out from the judge's summons reads as follows:

> *'a) To take this report on the file of this Hon'ble Court*
>
> *b) To permit the Official Liquidator to calculate the Government Commission and other expenses including this application to be paid out of the funds available in the accounts of company under liquidation.*
>
> *c) to permit the Official Liquidator to pay the balance amount after calculating and making payment towards deducting Government Commission and other expenses including the present application, to M/s.AIRCIL, who is the Secured Creditor and was paid only @ 30 paise in a rupee.*
>
> *d) To permit the Official Liquidator to file the final account*

without audit as there will be no transaction from the account of the company in liquidation.

e) To form an opinion simultaneously that the Liquidator cannot proceed with the winding up and that it is just and reasonable to make an order to dissolve M/s.Alpha Amins Private Limited under Section 481 of the Companies Act, 1956.

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

4. To be noted, captioned application is *inter alia* under Section 481 of said Act seeking dissolution of said company. Be that as it may, Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity), who is in this web-hearing on a videoconferencing platform on behalf of OL, adverting to said report and the annexures thereto, submits that balance in the hands of OL is Rs.9,01,972.30.

5. Learned Deputy OL submits 'Asset Reconstruction Company (India) Limited' ('ARCIL' for the sake of brevity) is the only creditor qua said company. ARCIL is a secured creditor and the balance from and out of aforementioned sum of little over Rs.9.01 lakhs will be paid out to ARCIL i.e., balance after calculating and making payment towards deduction of Government commission and other expenses including the

expenses of the captioned application, is learned Deputy OL's say. Learned Deputy OL, on instructions, submits that such payment, which is one of the limbs of prayer in captioned application [Limb (c)] will be made within 8 weeks from today i.e., on or before 26.03.2021.

6. To be noted, ARCIL the lone secured creditor, has been paid only 30 paise in a rupee and this is captured in Paragraph 5 of said report. It is further to be noted that the other creditor is a preferential creditor i.e., Commercial Tax Department, it has been paid out the amount that has been admitted as against the amount claimed and this Court is informed that the matter has been given a quietus by the preferential creditor.

7. In this regard, this Court deems it appropriate to reproduce paragraphs 2 to 7 of said report, which read as follows:

*'2. It is respectfully submitted that by an order dated 05.02.2009 made in C.P.No.274/2004 this Hon'ble Court ordered winding up of M/s.Alpha Amins (P) limited and appointed the Official Liquidator as the Provisional Liquidator of the said company with further directions to take charge of all the assets and effects of the company. Subsequently by the order dated 11.11.2009 the Official Liquidator was appointed as the Liquidator of the company. Copy of the order dated 05/02/2009 & 11/11/2009 are collectively enclosed herewith and marked as **Annexure-A**.*

3. It is submitted that the Official Liquidator taken possession of all the movable and immovable assets of the company in liquidation. It is submitted that by an order dated 08.12.2017 in C.A.No.664 /2017, this Hon'ble Court has confirmed the sale of movables as well as leasehold right on immovable assets of the company in liquidation situated at No.F-90/2, 93 & 94, Phase-1, SIPCOT Industrial Complex, Gummidipoondi for a sum of Rs.1,80,00,000/- in favour of M/s. Falcom Isba Engineering Private Limited, Chennai. As per the orders of the Hon'ble Court dated 11.01.2018 made in C.A.No.47/2018 & order dated 09.02.2018 made in C.A.No.644/2017, the possession was handed over to the purchaser.

4. It is submitted that the Official Liquidator submits that pursuant to the order dated 07.12.2018 made in Company Application No.686/2018, the Official Liquidator has invited claims. It is submitted that the Official Liquidator has received two voluntary claims. The details of claims received from 2 creditors are as follows:

SI.No.	***Particulars***	***Category***	***Amount Claimed (in Rs.)***
1	*ARCIL, Chennai*	*Secured Creditor*	*7,03,76,708.00*
2	*Commercial Tax Department Chennai-28*	*Preferential Creditor*	*8,95,155.00*
		TOTAL	*7,12,71,863.00*

5. The Official Liquidator has adjudicated the said claims and *the details of adjudication are as follows:*

S.No	Particulars	Category	Amount Claimed	Amount Admitted	Amount Rejected	Remarks
1	ARCIL	Secured Creditor	7,03,76,708	4,65,00,000	2,38,76,708	For non submission of documentary evidence
2	The Commercial Tax Department	Preferential Creditor	8,95,155	8,07,071	88,084	Towards interest and non submission of documentary evidence
		TOTAL	7,12,71,863	4,73,07,071	2,39,64,792	

6. It is submitted that pursuant to the directions of this Hon'ble Court vide order dated 15.11.2019 made in C.A.No.408 of 2019, the Official Liquidator has disbursed dividend @ 30 paise in a rupee on the admitted amount to the tune of Rs.1,39,50,000.00 to the Secured Creditor viz., ARCIL in terms of the provisions under Section 529-A of the Companies Act, 1956. At present the Official Liquidator is haivng amount of Rs.9,01,972.30 in the account of the company under liquidation, Therefore, the Official Liquidator is to be permitted to pay the balance amount to M/s.ARCIL after calculating and making payment towards the Government Commission and other expenses including this application to be paid out of the funds of company under liquidation.

7. It is further submitted that there will be 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.'

8. In the light of specific averment in said report that there is absolutely no possibility of recovery or payment of dividend in future and that no fruitful purpose would be served by allowing the main CP to continue to exist (paragraph 7 of said report supra), this Court having heard learned Deputy OL, having perused said report is left with the considered opinion that it would be just and reasonable in the circumstances of this case to order dissolution of said company subject only to aforementioned payment of balance to lone secured creditor within 8 weeks, which has been alluded to supra. This Company Court notices that main CP is of the year 2004 and it has been on the file of this Court for more then 1 ½ decades. In the light of said report and the trajectory the winding up proceedings have taken, this Court is of the opinion that it would be a penny wise pound foolish exercise to keep the captioned CP pending any further.

9. To be noted, this is the reason owing to which this Court has formed an opinion that it is just and reasonable in the circumstances of the case to order dissolution of said company as alluded supra. In other words, the opinion alluded to supra is delineated here.

10. Captioned application is ordered by acceding to prayer limbs (a) to (e). To be noted, limb (c) is allowed with a rider that payment of

balance to ARCIL shall be paid within 8 weeks from today i.e., on or before 26.03.2021.

Main CP is ordered by holding that said company stands dissolved subject only to limb (c) of the multi-limbed prayer in captioned application being complied within above mentioned time line and main CP is disposed of on above terms. There shall be no order as to costs.

29.01.2021

gpa

M.SUNDAR.J.,

gpa

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