<u>Comp.A.No.61 of 2021</u>
<u>in</u>
<u>C.P.No.238 of 2013</u>

<u>M.SUNDAR, J</u>

Captioned application has been taken out by 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of convenience and brevity].

2. Ms.K.Latha Parimala Vadana, learned Official Liquidator is before this Court on a video conferencing hearing.

3. Captioned application has been taken out with a multi-limbed prayer and multi-limbed prayer as culled out from judges summons reads as follows:

> *'a) To take this report on record.*
>
> *b) To permit the Official Liquidator to call for claims from all the creditors of the company in provisional liquidation by giving 30 days' time from the date of publication of the notice in the newspaper to prove their debts/claims before the Official Liquidator.*
>
> *c) To permit the Official Liquidator to publish the advertisement for calling claims in one issue of English daily*

"The New Indian Express" (in English) and another issue in Newspaper "Dinamani" (Tamil) both in Tamilnadu Edition as indicated in para-6 of this report.

d) To permit the Official Liquidator to dispense with requirement of Rule 148(2) of the Companies (Court) Rules, 1959, from the issue of individual notices to the creditors.

e) To permit the Official Liquidator to incur such expenditure, as may be necessary, such as printing and stationary charges, postage and advertisement charges etc., for the purpose of inviting claims from the creditors out of the funds of the company in liquidation and

f) To pass such order/orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

4. Learned OL submits that a 'report dated 01.02.2021' [hereinafter 'said report' for the sake of brevity and convenience] has been filed in support of captioned application. Most relevant portion of the said report is paragraph Nos.2 to 8 which read as follows:

'2. That by an order dated 18.06.2014 made in C.P.No.238/2013 this Hon'ble Court has wound up M/s.Sumukha Industries India Limited and the Official Liquidator attached to this Hon'ble Court as the Provisional Liquidator of the company with directions to take charge of all the assets and effects of the company.

3. It is submitted that the Official Liquidator took *possession of two wheeler i.e., Two Wheeler - TN-37-AV-6260 and Renault Duster Car - TN-37-CA-76. They were brought for sale by an auction as per the Hon'ble High Court, Madras order dated 21.03.2018 and the above mentioned movable assets were sold and realized sum of Rs.6,12,000/-.*

4. It is submitted that in view of the availability of funds in the company in liquidation. The Official Liquidator is filing this application seeking direction to call for the claims from the creditors of the company in liquidation.

5. It is submitted that Shri.Santhoshkumar Kanodia, one of the ex-director of the company in liquidation had submitted statement of affairs on 12.12.2018 to this office. In the statement of affairs, under the head of Trade Debtor, five debtors were shown borrowed from company in liquidation amounting to Rs.8,42,18,142.03. Based on debtors list, this office issued Demand Notice on above mentioned debtors.

6. That in compliance of this Hon'ble Court order dated 16.08.2019, for invitation of claims from the creditors, the Official Liquidator may be permitted to publish the advertisement for calling claims in one issue in "The New Indian Express" (in English daily) and in another issue in "Dinamani" (Tamil), both in Tamil Nadu Edition for due compliance of Rule 148(1) of the Companies (Court) Rules, 1959. The Official Liquidator may also be permitted to incur the expenses in connection with publication of Notice from and out of the funds of the company in provisional liquidation.

> *7. It is submitted that it is necessary for the Official Liquidator to incur necessary expenditures, such as printing and stationery, postage and advertisement charges, etc., As sufficient funds are available to the credit of the company in liquidation, the Official Liquidator may be permitted to incur such expenditure from and out of the funds of the company in liquidation.*
>
> *8. It is submitted that the funds position of the company in liquidation as on date is as under:*

Bank	-	*1,36,634.11*
Investment	-	*5,00,000.00*

		6,36,634.11
		-------------'

5. This Court pointed out to OL that there is no averment in the said report in support of prayer limb (d).

6. Responding to the above, learned OL submitted that considering the number of creditors and fund position, if a cost benefit analysis is made it would be desirable to dispense with individual notice to each creditor. Learned OL also submits that this plea is based on nature of the matter. The submission made herein is recorded.

7. This Court having perused said report, having heard learned OL and having noticed that the multi-limbed prayer in captioned application is only a step in aid of winding up which is underway, deems it appropriate to order captioned application by acceding to the prayer limbs (a) to (e).

8. Captioned application ordered on the above terms. There shall be no order as to costs.

05.03.2021

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M.SUNDAR, J

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