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*Comp.A.No.167 of 2020
in C.P.No.127 of 2011
and CP.No.127 of 2011*

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M.SUNDAR, J.,

Captioned Company Application (Company Application No.167 of 2020) has been taken out by the 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of convenience and clarity] *inter alia* under Section 481 of 'The Companies Act, 1956' [hereinafter 'said Act' for the sake of convenience and clarity] with a prayer for dissolution of 'Puma Tours and Travels Private Limited' [hereinafter 'said Company' for the sake of convenience and clarity].

2. Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' [hereinafter 'Deputy OL' for the sake of brevity] is before this Court on behalf of applicant/OL.

3. Learned Deputy OL submits that a 'report of OL dated 23.01.2020' (hereinafter 'said report' for the sake of convenience) along with two Annexures (Annexures A and B) have been filed in support of captioned application.



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4. There is a multi limbed prayer in the captioned application i.e.,
prayer made up of five limbs and they are as follows:

- 'a. To take this report on the file of this Hon'ble Court*
- b. To permit the Official Liquidator to file the final account without audit as there will be no transactions from the account of the company in liquidation.*
- 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 M/s.Puma Tours and Travels Private Limited under Section 481 of the Companies Act, 1956.*
- d. To grant permission to transfer the balance amount lying at the credit of the company in liquidation to the Company Liquidation Account as undistributed assets under section 555 of the Companies Act, 1956 after meeting all the expenses related to the winding up proceedings of the subject company including the present application.*
- e. To pass any such other orders that this Hon'ble Court may deem fit and proper in the circumstances of the case.'*

5. Mr.G.Surya Narayanan, learned counsel who is before this Court, advertng to earlier proceedings, submits that he is for the petitioning creditor qua main CP and his claim in the main CP was in the region of above Rs.5,00,000/- [exact figure is not readily given to this Court] but



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dissolution application has been moved. Responding to this learned Deputy OL submits that the petitioning creditor has not made any claim before the OL and petitioning creditor also ought to have made a claim to the entitled payment as a creditor qua said Company. Learned counsel for petitioning creditor submits that the filing clerk who was handling the matter is no more and therefore, he is not in a position to establish that a claim was infact made. This creates a deadlock. The deadlock needs to be broken. The reason is captioned main CP is clearly a vintage matter and it is heading towards getting classified as ancient as it is of the year 2011. It is more than one decade old in this Court.

6. This Court carefully perused the said report of OL. Paragraphs 3 to 6 of said report of OL are of relevance and the same read as follows:

'3. It is submitted that the Official Liquidator deputed his officials to the registered office situated at No.8 & 9, 2nd floor, "Prince Plaza", No.46, Pantheon Road, Egmore, Chennai-600 008 on 28.05.2012 to take possession of all the assets, books of accounts and records and also for sealing the said premises. The officials deputed reported that they visited the company's registered office and noticed that at Door No.8 one M/s.Travel creators and at Door No.9 one M/s.Panicker Travels are functioning. The premises wherein the registered office of



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the company in liquidation was situated, was let out on lease by shop owner Mr.L.Dilip Kumar to M/s.Travel Creators on 01/12/2011 and continuing for a period of 33 months as per the Lease Deed dated 01/12/2011.

4. It is submitted that Ex-directors of the company in liquidation have not filed Statement of Affairs (SOA) as required to file u/S.454 of the Companies Act, 1956. However, the Official Liquidator conducted meeting with Ex-director on 05.07.2012 under Rule 130 of Companies (Court) Rules, 1959 for the purpose of investigating the Company's affair and also to know whether the company has any other assets. As per the minutes of the said meeting there is no immovable property available in this company in Liquidation.

5.It is submitted that the Official Liquidator has filed an application in C.A.No.380/2013 under Section 454 (5A) for non filing of statement of affairs and the same was disposed by this Hon'ble Court on 21.06.2019.

6. 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.'

7. Before proceeding further, this Court deems it appropriate to extract and reproduce the earlier proceedings of this Company Court made in previous listings on 25.09.2020, 29.01.2021, 19.02.2021 and 12.03.2021,



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which read as follows:

'Proceedings dated 25.09.2020

Read this in conjunction with and in continuation of earlier proceedings dated 28.08.2020.

2. Today, Ms.Jayasudha Surya Narayanan, learned counsel is before this Company Court. Learned Deputy Official Liquidator Mr.Bavisetty Sridhar submits that copy of the report of Official Liquidator being report dated 23.01.2020 (filed in support of captioned application) along with Annexures will be made available to the learned counsel for petitioning creditor. Learned counsel for petitioning creditor undertakes to collect the same from the office of Official Liquidator by Monday (28.09.2020).

List after a fortnight.'

'Proceedings dated 29.01.2021

Both sides request for an adjournment.

2. At request of both sides, adjourned by three weeks.

List on 19.02.2021.'

'Proceedings dated 19.02.2021

At request of both sides, list in the physical hearing list on 12.03.2021.'

'Proceedings dated 12.03.2021

Read this in conjunction with and in continuation of earlier proceedings made in previous listing on 25.09.2020.



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2. Today, Mr.G.Surya Narayanan, learned counsel for original petitioning creditor in main Company Petition is before me through virtual Court. Learned counsel points out that report of the Official Liquidator filed in support of captioned application shows a balance of Rs.1,83,618.67/-. Learned counsel submits that his claim i.e., claim of original petitioning creditor, is in the region of Rs.5 lakhs and he has also filed a claim petition, but he is unable to give the details of the claim petition readily owing to Nature having overtaken the clerk in his office who was handling the matter, his short say is, as he has made a claim as original petitioning creditor, he can be paid out the balance instead of depositing into the public account under Section 555(2) of 'The Companies Act, 1956' (hereinafter 'said Act' for brevity). In support of this submission, learned counsel draws the attention of this Court to Section 447 of said Act. Learned counsel submits that the effect of a winding up order is that it will operate in favour of the creditors and the contributories as if it is a joint petition made by creditors and contributories.

3. Learned Official Liquidator submits that if the above details are filed in the form of a counter affidavit in the captioned application, she would be in a better position to meet the arguments. Learned counsel for original petitioning creditor seeks a fortnight's time to file a counter affidavit.

List after a fortnight.'



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8. Therefore in spite of 1 ½ years having elapsed no affidavit has come before this Court from the petitioning creditor.

9. To be fair to both sides, exercising the powers of this Company Court under Section 481 of said Act read with Section 555 of said Act, this Court deems it appropriate to direct Rs.1.5 lakhs in all (from and out of the balance of Rs.1,83,618.67/-) to be paid to petitioning creditor so that the balance can be used by the OL for payment out of statutory requirements and the further balance thereafter shall be deposited in the public account with Reserve Bank of India in accordance with Section 555 of said Act.

10. Aforementioned payment of Rs.1.5 lakhs shall be treated as full quit of the claims of petitioning creditor in the light of this order. This order is being made in exercise of powers of this Company Court under Section 481 of said Act (as already alluded to) as both the contingencies therein exist in the case on hand. One is, liquidator cannot proceed with winding up of said Company for want of funds and two is, keeping the captioned main CP pending further will be a penny wise pound foolish exercise as it is not a money suit or a recovery suit filed by the petitioning creditor. It is a creditors winding up petition *inter alia* under Section 433 (e) and (f) and 434



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of said Act. The petitioning creditor shall make an application before OL within a fortnight from today i.e., on or before 25.03.2022 for payment out of the aforementioned Rs.1.5 lakhs and the OL shall ensure that the payment is made within four weeks therefrom i.e., on or before 22.04.2022. For payment of further balance if any under Section 555 of said Act in the public account the same shall be done within four weeks therefrom i.e., four weeks from 22.04.2022 i.e., on or before 20.05.2022.

11. The sequitur is said Company is dissolved. If the petitioning creditor does not make a claim within a fortnight from today, it is open to OL to transfer the entire funds to public account under Section 555 of said Act.

Captioned application and captioned main CP ordered as above. There shall be no order as to costs.

11.03.2022

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