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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

**Company Application No.101 of 2022
in Company Petition No.94 of 1999
and
Company Petition No.94 of 1999**

Company Application No.101 of 2022

The Official Liquidator,
High Court, Madras as the
Liquidator of
M/s.Sarveswara Benefit Fund Limited
(in liquidation)

... Applicant

Company Petition No.94 of 1999

K.R.Alagappan

... Petitioner

Vs.

Sarveswara Benefit Fund Limited,
N.B.Bhawan, No.392/392,
North Masi Street,
Madurai - 625 001.

...Respondent

Comp.A.No.101 of 2022: Company Application filed under Sections 481 and 550(1) and (2) of the Companies Act, 1956 read with Rules 9 and 11 (b) of Companies (Court) Rules, 1959 for the following reliefs:

(a)To take this report;

(b)To form an opinion that as the process of liquidation is completed, it is just and reasonable in the circumstances of the case to order for the dissolution of the company and under Section 481 of the Companies Act, 1956;

(c)To permit the Official Liquidator to file the final account along with auditor's certificate issued by M/s.Sarathy & Vasu, Chartered Accountants appointed by this Hon'ble Court for maintenance of accounts of the Office of the Official Liquidator;

(d)To grant permission to transfer the balance amount lying to the credit of the company in liquidation, if any, as undistributed assets under Section 555(2) of the Companies Act, 1956;

(e)To meet all incidental expenses in connection with dissolution, including the cost of this application, from the funds of the company in liquidation;

(f) To permit the Official Liquidator to dispose of books and papers of M/s.Sarveswara Benefit Fund Limited (in liquidation) immediately after the expiry of 5 years from the date of dissolution of the company as per Section 550(1) & (2) of the Companies Act, 1956;

(g)To pass such other order/orders that this Hon'ble Court may deem fit and proper in the circumstances of the case.

C.P.No.94 of 1999: Company Petition filed under Sections 433(1)(e)(f), 434(1)(a) and 439(1)(b) of the Companies Act for winding up the respondent company M/s.Sarveswara Benefit Fund Limited under the provisions of the Companies Act and direct their assets wherever situate to vest with the Official Liquidator, High Court, Madras and provide costs to the petitioner from and out of the estate.

For Applicant : Mr.Bavisetty Sridhar,
Deputy Official Liquidator

ORDER

This common order will now dispose of captioned company application (Comp.A.No.101 of 2022) and captioned main company petition (C.P.No.94 of 1999). The captioned main company petition shall hereinafter be referred to as 'main CP' for the sake of brevity, convenience and clarity.

2. Captioned company application has been taken out inter-alia under Sections 481 and 550(1) and (2) of the Companies Act, 1956 (hereinafter referred to as 'said Act' for the sake of convenience and clarity) with prayers including a prayer for dissolution of 'Sarveswara Benefit Fund Private Limited' (hereinafter referred to as 'said company' for the sake of brevity, convenience and clarity) by a petitioning creditor and this Company Court by an order made way back on 30.04.1999 kick-started the winding up proceedings.

3. The 'Official Liquidator attached to this Court' (hereinafter 'OL' for the sake of brevity) who is represented by Mr.Bavisetty Sridhar, learned Deputy Official Liquidator (hereinafter 'Dy.OL' for brevity), who is before this Company Court today, took charge pursuant to aforementioned order dated 30.04.1999 made by this Company Court and what unfurled thereafter and therefrom has been set out in a report of OL dated 28.03.2022 (hereinafter referred to as 'said report' for the sake of convenience and clarity).

4. Learned Dy OL submits that claims were called for but there was no response. Learned Dy OL also submits that one individual (Ms.V.Suguna Bai) claiming to be a creditor *qua* said company voluntarily submitted Form 66 on 20.01.2020 but thereafter did not pursue the matter though reminders were sent (including Form 68) which was duly received by her. To be noted, this Form 68 has been annexed to said report of OL as Annexure B.

5. Learned Dy OL submits that paragraphs 7 to 9 and 12 of said report of OL are most relevant and draws the attention of this Company Court to these four paragraphs, which read as follows:

'7. That as permitted by this Hon'ble Court, Official Liquidator caused publication in Indian Express & Dinamani inviting claims from the creditors by fixing the last date of submission of claims as 18.11.2020. In response to the publication, no creditors submitted claim in Form No.66 with the Official Liquidator.

8. That though no creditors responded to the publication inviting claims from the creditors, one Mrs.V.Suguna Bai had voluntarily submitted Form No.66 on 20.01.2010 claiming an amount of Rs.90,000/- enclosing photo copies of 4 receipts issued by the company in liquidation during 1998. In this regard Form No.68 was issued to Mrs.V.Suguna Bai on 05.01.2022 to submit original documentary evidence to substantiate the claim. The receipt of Form No.68 was duly acknowledged by Mrs.V.Suguna Bai. However as the claimant had not submitted the originals within a reasonable time, a reminder was issued on 08.03.2022 to submit the originals within 7 days from the date of receipt of communication. Further for the said reminder also though the receipt of the same was acknowledged on 10.03.2022, there was no response from Mrs.V.Suguna Bai. The copies of Form No.66 with enclosures, Form No.68, the reminder and postal acknowledgements are collectively enclosed as "Annexure B" for the kind reference of this Hon'ble Court.

9. That as the claimant had not submitted the originals to prove the claim, Form No.69 rejecting the claim was issued on 18.03.2022. A copy of the Form No.69 is enclosed as "Annexure C" to this report.

12. That the funds position of the company (in liquidation) as on date is Rs.9,22,106.20.'

6. Adverting to said report and more particularly aforementioned four paragraphs, learned Dy OL submits that the captioned main CP has served its purpose or in other words, it has outlived its utility and no useful purpose would be served in keeping the main CP pending in this Company Court.

7. This Company Court carefully considered the submissions of learned Dy OL and perused the said report of OL. This Company Court finds that one of the limbs of prayer in the captioned company application is to transfer the balance realised from the liquidation to the Public Account of India in the Reserve Bank of India under Section 555 of said Act. Therefore, even if the aforementioned individual, who voluntarily submitted Form 66 wakes up very late in the day, monies will still be available for disbursement. In this view of the matter, the

lone claim will also not go unaddressed if the prayer in the captioned company application i.e., prayer for dissolution is acceded to.

8. This Company Court also notices that the captioned main CP was filed in the previous millennium. It is more than two decades old. To be noted, it is 23 years old and it is gravitating towards a quarter of a century. In this view of the matter, this Court is of the opinion that just and reasonable circumstances for acceding to the dissolution prayer exist in the case on hand, reason being further pendency of captioned main CP in this Company Court will only a penny wise pound foolish exercise.

9. This Company Court now turns to the prayer in the captioned company application which is a multi-limbed prayer. There are seven limbs in the prayer i.e., prayer limbs (a) to (j).

10. In the light of the narrative thus far, prayer limbs (a) to (c) and (e) are ordered as prayed for. As regards prayer limb (d), OL is permitted/directed to deposit in the Public Account of India in the Reserve Bank of India the balance in his hands after defraying all permissible expenditure as permitted under the Companies Act and

Rules thereunder besides defraying permissible expenses *qua* liquidation. As regards prayer limb (f), this Company Court is informed that the Central Government has made a set of Rules regarding destruction of records *qua* records in the office of OL. This Company Court is also informed that such Rules are traceable to sub-sections (1) and (2) of Section 550 of said Act. Therefore, this prayer limb i.e., prayer limb (f) is answered by permitting the OL to proceed with destruction as per Rules made by Central Government. To be noted, as far as records in this Company Court are concerned, the same will be governed by digitization process which is under way as the digitization process which is under way in this Court includes the provision of destruction of physical records. As regards prayer limb (g), it is the usual residuary limb of any prayer and in the facts and circumstances of this case, no specific order is required under prayer limb (g).

11. Sequiter is, dissolution of said company i.e., Sarveswara Benefit Fund Private Limited is ordered inter-alia under Section 481 of said Act i.e., Companies Act, 1956. This means that captioned main CP i.e., C.P. No.94 of 1999 is disposed of as closed. Further obvious sequiter is, OL i.e., Official Liquidator attached to this Court stands discharged.

12. Captioned company application and captioned main CP are disposed of in the aforesaid manner. There shall be no order as to costs.

22.04.2022

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To

The Official Liquidator,
High Court, Madras.

M.SUNDAR,J.,

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