Comp.A.Nos.172 of 2021
in C.P.No.196 of 2015

KRISHNAN RAMASAMY, J.,

This Company Application was filed by some of the share holders of the company.

2. The learned counsel for the applicant submitted that pending the Company Petition, the Company came to be struck off by the Registrar of Company on 04.06.2018. Further it was submitted that during the course of business by the company, they have invested money in mutual funds and as on date, all the share holders came together and filed joint compromise memo dated 28.09.2021.

3. Since the company has been struck off, this Court has empowered to wind up the company in terms of the provisions of Section 560(5)(b) of the Companies Act, 1956. The contributories of the second respondent-Company had filed the aforesaid compromise memo on the file of this Court. As per the said compromise memo, the contributories

are entitled for the amount invested by the Company in the mutual funds in the manner stated in Clause A of the joint memorandum of compromise. Clause A of the joint memorandum of compromise reads as follows:

> "***a.*** *The Mutual funds held in the name of M/s.Kaptan MCA Tracktech Private Limited in i). HDFC High Interest Fund-Short Term Plan in Folio No.8730390/91 (now known as HDFC Medium Term Debt Fund-Regular Plan- Fortnightly IDCW with ISIN INF179K01905), ii). HDFC Case Management Fund-Treasury Advantage Plan in Folio No.8730398/67 (now known as HDFC Low Duration Fund-Regular Plan-Daily IDCW with ISIN INF179K01434) and iii). ICICI Prudential Short Term-Regular Plan in Folio No.6163330/53 (now known as ICICI Prudential Short Term Fund-Monthly IDCW with ISIN INF109K01647), shall be paid in full, by the concerned bank/mutual fund/Asset management Companies before the Hon'ble High Court of Madras by obtaining appropriate orders from the Court in Company Application No.172 of 2021 filed by the second party or such other application/petition may be filed, to Mr.C.Sivakumar (representing the second party) as full and final settlement of the second party's claims under the Agreement dated 6th September 2012. All the parties herein agree that such transfer/payment out of the proceeds of the said mutual funds by the concerned Bank/Mutual*

Fund/Asset Management Companies to Mr.C.Sivakumar (representing the second party), shall be in full settlement of the claims of the parties herein and each party releases all the other parties of any further liabilities against each other upon such transfer/payment out."

4. Further, in terms of Clause C of the joint compromise memo, parties to the said memo have undertaken that in the case of any liabilities arises, they will defend the same. The Clause C states as follows:

*"**c.** The first party gives up all claims against the other parties and against M/s.Kaptan MCA Tracktech Private Limited including all such claims like salaries, fees, commission, etc., and the first and third parties confirms that there are no liabilities by M/s.Katpan MCA Tracktech Private Limited to an third parties apart from what is disclosed in the last balance sheet dated 31.03.2013 filed with the ROC, Chennai and that there are no claims against M/s.Kaptan MCA Tracktech Private Limited from any government agency or other third parties including service tax, GST, income tax, bankers, F1 in schools, suppliers, schools, salaries, etc. In case any liabilities arises in future against M/s.Kaptan MCA Tracktech Private Limited (though there is no such possibilities) the second and third parties shall duly defend the same since the first party is in the UAE."*

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5. In view of the above, this Court is satisfied and inclined to allow this application. Accordingly, this application is ordered in terms of the joint compromise memo. The said joint compromise memo shall form the part and parcel of this order. If the entire amount is deposited as per the terms of joint compromise memo, thereafter, the liberty is granted to the parties, who are entitled, to withdraw the money.

02.02.2023
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