Comp.A.No.295 of 2022
in C.P.No.339 of 1997

KRISHNAN RAMASAMY, J.

This Application has been filed by the Official Liquidator under Section 446(2) and 460 (4) of the Companies Act, read with rules 9, 11(b) of the Companies (Court) Rules 1959, seeking for the following prayers:

(a) to take his report on record;

(b) to modify the order dated 06.11.2020 made in C.A.No.214, 245 and 246 of 2020 in C.P.No.339 of 1997;

(c) to permit the Official Liquidator to declare and disburse dividend at 56 paise in a rupee on the admitted amount to 4 creditors amounting to Rs.1,88,70,990/- as mentioned in para 12 of this report;

(d) to permit the Official Liquidator to open a separate dividend account for Rs.1,88,70,990/- with Punjab National Bank, N.S.C Bose Road, Chennai for disbursement of dividend to 4 creditors as mentioned para 12 of this report;

(e) to permit the Official Liquidator to keep the dividend account open for three months from the date opening and to transfer the unpaid amounts, if any, to the account of Registrar of Companies, Tamilnadu, Chennai as per the provisions of Section 555(1) and (3) of the Companies Act, 1956;

(f) to permit the Official Liquidator to dispense with causing publication regarding declaration/disbursement of dividend, since the disbursement is to be made to 4 creditors only;

(g) to permit the Official Liquidator to meet the incidental expenses in connection with the declaration/disbursement of dividend from the funds of the company in liquidation.

2.Learned Official Liquidator would submit that this Court vide order dated 06.11.2020, permitted the Official Liquidator to disburse 100% of the sale consideration of Rs.2,25,97,809.44 to Indian Bank. Subsequent to the said order, it has come to knowledge of the Official Liquidator that from the Indian Bank only the movable assets were secured and the immovable properties are not secured. As far as the movables are concerned, the same was realized for a sum of Rs.16,16,335.79. With regard to the balance amount of Rs.2,09,81,473.65 ie (2,25,97,809.44 – 16,16,335.79) has to be considered at par with other unsecured creditors. At para no.2 of the affidavit, learned Official Liquidator has stated the amounts proposed for unsecured creditors, which are as follows:

S.No	Claim No.	Name of the Claimant	Amount Claimed (in Rs.) (Form 66)	Amount Admitted (in Rs.) (Form 69/70)	Proposes to pay dividend @56 paise in a rupee on the admitted amount (in Rs.)
1.	4	ARCIL, Chennai (Assignee of Indian Bank)	3,60,44,038.74	2,25,97,809.44 (Paid Rs.16,16,335.79 Balance to be paid is Rs.2,09,81,473.65)	1,17,49,625/- (56% of Rs.2,09,81,473)
2.	1	The Commercial Tax Offcier, Ponneri Assessment Circle, Ponneri	1,13,83,945.00	1,13,83,945.00	Rs.63,75,009/-
3.	2	The Deputy Commissioner of Central Excise, Chennai X Division, Chennai -17	10,03,935.77	10,03,935.77	Rs.5,62,204/-
4.	6	The Commercial Tax Officer, Vijayawada	3,28,842.00	3,28,842.00	Rs.1,84,152/-
		Total			**Rs.1,88,70,990/-**

3.By referring the above, the Official Liquidator requested this Court to modify the order passed by this Court on 06.11.2020 since all those facts narrated in his report has come to his knowledge subsequent to the order of this Court on 06.11.2020.

4.Though notice was ordered and the name of the respondent is printed in the causelists, there is no representation for the respondent either in person or through counsel.

5.Upon hearing and perusal of the affidavit, it appears that from the Indian Bank only the movable assets have been secured and the immovable assets were not secured and therefore, Indian Bank has to be considered at par with other creditors to disburse dividend at 56 paise in a rupee as far as immovable properties are concerned. This Court satisfied with the averments made in the affidavit filed in support of this application and hence, inclined to allow the present application.

6.Accordingly, this application is ordered as prayed for.

17.03.2023

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KRISHNAN RAMASAMY, J.

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