Comp.A.Nos.143 of 2019, 288 of 2022 & 14 of 2020
in C.P.Nos.207 of 2003

KRISHNAN RAMASAMY, J.,

The application in Comp.A.No.143 of 2019 has been filed to direct the 3rd respondent to deposit a sum of Rs.40,50,000/- with the Official Liquidator.

2. The application in Comp.A.No.288 of 2022 has been filed to direct the 1st respondent to claim the due amount from the 2nd respondent and to disburse the same to the workmen of the Company in Liquidation.

3. The application in Comp.A.No.14 of 2020 has been filed to permit the applicant to appropriate the sale proceeds after depositing the workmen dues with the respondent.

4. The application in Comp.A.No.193 of 2023 has been filed to direct the respondent to pay the balance Provident Fund dues to the tune of a sum of Rs.1,25,02,816/- to the applicant.

5. Mr.E.Om Prakash, learned Senior counsel, who is appearing for M/s.Phonenix ARC Private Limited, would submit that they had sold the secured assets of the Company in liquidation (M/s.Sree Uma Parameshwari Mills Limited) and realised the sale proceeds. Further, in this regard, he referred a memo dated 10.06.2024.

6. At this juncture, it would be apposite to extract the details provided in the said memo with regard to the sale of properties, interest accrued on fixed deposit, amount of refund paid to the purchaser towards the land acquired by Government of Tamil Nadu, the expenses incurred by the M/s.Phonenix ARC Private Limited from the year 2010 till date, admitted

provident fund claims as adjudicated by the learned Official Liquidator, admitted workmen dues as adjudicated by the learned Official Liquidator, claims rejected by the learned Official Liquidator, amount available for distribution, etc., which are more fully described as follows:

I. Amount realized by the applicant:-		
1	(Add) By sale of Machineries on 01.12.2015 **(A)**	Rs.80,00,000/-
2	(Add) By sale of Part Land and building on 02.12.2019 **(B)**	Rs.9,41,00,000/-
3	(Add) By sale of Land and building 21.04.2023 **(C)**	Rs.27,47,00,000/-
4	(Add) By interest accrued on Fixed Deposit up to 29.02.2024 **(D)**	Rs.3,10,47,234/-
5	(Less) Amount of refund paid to the Purchaser towards the land acquired by Government of Tamil Nadu on 15.04.02024 **(E)**	Rs.3,32,75,285/-
6	**Total (F) = (A+B+C+D) - (E)**	**Rs.37,45,71,949/-**
7	Expenses incurred by the applicant from the year 2010 till date, towards security charges, legal expenses in prosecuting/defending huge number of applications, sale process, publication charges and all expenses incurred **(G)**	Rs.1,94,16,364/-
8	**Balance Sale proceed available with applicant as on date (H) = (F) - (G)**	**Rs.35,51,55,585/-**

II.	Admitted Provided Fund Claim **(I)**	Rs.5,17,83,741/-
III.	Amount due and recoverable by the applicant (Claim calculated up to the date of Liquidation) **(J)**	Rs.83,82,92,473/-
IV	Admitted Workmen dues as adjudicated by the Official Liquidator **(K)**	Rs.4,89,10,973/-
V	**Amount available for distribution after paying the admitted claim of EPFO (L) = (H) - (I)**	**Rs.30,33,71,844/-**

Details of Claims		
Particulars	**Amounts**	**Sharing Percentage**
Total Value of Workers Claim rejected by Official Liquidator **(M)**	Rs.3,46,22,818/-	0.04
Total Value of Workers Claim Admitted by Official Liquidator **(N)**	Rs.4,89,10,973/-	0.05
Total Claim of Secured Creditor calculated as on 23.07.2008 in terms of Recovery Certificate issued by Debt Recovery Tribunal under RP.No.17/2010 in DRC.No.16/2010 **(O)**	Rs.83,82,92,473/-	0.91
Total Amount of Claim (Rejected Workmen Claims,	**Rs.92,18,26,264/-**	**1.00**

Admitted Workmen Claims & Claim of Secured Creditor) (P)		

Details of Proportionate Amount payable to Workmen for the admitted claims:-		
(A)	Amount available for Distribution **(L)**	Rs.30,33,71,844/-
(B)	Total Admitted Claim of Workmen **(N)**	Rs.4,89,10,973/-
(C)	Total Amount of Claim (Rejected Claims, Admitted Workmen Claims & Claim of Secured Creditor) **(P)**	Rs.92,18,26,264/-
Proportionate Amount Payable to Workmen whose claims have been admitted (Q) = (L) X (N) / (P)		Rs.1,60,96,539/-

Details of Proportionate Amount Payable to Secured Creditor		
(A)	Amount Available for Distribution **(L)**	Rs.30,33,71,844/-
(B)	Total claim of Secured Creditor calculated as on 23.07.2008 **(O)**	Rs.83,82,92,473/-
(C)	Total Claim Amount **(Rejected Claims, Admitted Workmen Claims and Claim of Secured Creditor) (P)**	Rs.92,18,26,264/-
Proportionate Amount Payable to Secured Creditor (R) = (L) X (O) / (P)		**Rs.27,58,80,980/-**

Details of Proportionate Amount Payable to Workmen whose claims have been rejected*.		
(A)	Amount available for Distribution **(L)**	Rs.30,33,71,844/-
(B)	Total Rejected Claim of Workmen **(M)**	Rs.3,46,22,818/-
(C)	Total Amount due for Rejected Claims, Admitted Workmen Claims & Secured Creditor **(P)**	Rs.92,18,26,264/-
Proportionate Amount Payable to Workmen whose claims have been rejected (S) = (L) X (M) / (P)		**Rs.1,13,94,325/-**

7. By referring the above memo, he would submit that total amount realised along with interest would be a sum of Rs.37,45,71,949/-. After deduction of a sum of Rs.1,94,16,364/- towards the expenses incurred by the applicant, the balance sale proceedings available as on date would be a sum of Rs.35,51,55,585/-. Out of the said amount, the provident fund claims are priority claims and hence, a sum of Rs.5,17,83,741/- has to be directly deposited with the learned Official Liquidator towards the PF claims.

8. Apart from that, he would submit that the proportionate amount

payable to workmen, whose claims have been admitted, would come around a sum of Rs.1,60,96,539/-. Out of the total claims of workmen, the admitted claim is a sum of Rs.4,89,10,973/-. That apart, the proportionate amount payable to workmen, whose claims were rejected would come around a sum of Rs.1,13,94,325/- and the same will be kept in a separate interest bearing fixed deposit account till the disbursement attains finality.

9. Further, he would submit that as far as the expenses incurred by M/s.Phonenix ARC Private Limited (Rs.1,94,16,364/-) is concerned, the same will also be kept in a separate account by them until the completion of verification by the learned Official Liquidator.

10. Mr.K.Srinivasa Murthy, learned counsel appearing for the applicant in Comp.A.No.483 of 2019 had also requested this Court to pass appropriate orders based on the memo filed by M/s.Phonenix ARC Private Limited. Further, he requested this Court for disbursement of amount.

11. The learned Official Liquidator would submit that if once the amount is deposited by M/s.Phonenix ARC Private Limited, the same will be disbursed and paid towards the provident funds claim. Further, she seeks time to complete the verification with regard to the expenses incurred by M/s.Phonenix ARC Private Limited.

12. Heard the learned counsel appearing for respective parties and the learned Official Liquidator and also perused the entire materials available on record.

13. Considering the above submissions, this Court is inclined to pass following orders:

> A) The total amount realised out of sale proceedings, along with the interest on fixed deposit, would be a sum of Rs.37,45,71,949/-. Out of the said amount, M/s.Phonenix ARC Private Limited is directed to keep a sum of Rs.1,94,16,364/-, i.e., the expenses incurred by them, in a separate account until the completion of verification by the learned Official Liquidator.

B) After deducting the aforesaid amount towards the expenses incurred by the M/s.Phonenix ARC Private Limited, the balance amount, available for disbursement towards secured creditors and priority claims, would be a sum of Rs.35,51,55,585/-. Out of the said amount, M/s.Phonenix ARC Private Limited is directed to deposit a sum of Rs.5,17,83,741/- to the learned Official Liquidator towards the provident fund claims as adjudicated by her. Upon such deposit, the learned Official Liquidator is directed to pay the said amount towards provident fund claims immediately without any further delay.

C) The total workmen claims as adjudicated by the learned Official Liquidator is a sum of Rs.4,89,10,973/-. By taking into consideration of the secured creditors' claims and admitted workmen dues, the workmen are entitled for a sum of Rs.1,60,96,539/- on proportionate basis. Therefore, M/s.Phonenix ARC Private Limited is directed to deposit the said amount to the learned Official Liquidator directly and upon the receipt of the said amount, the learned Official Liquidator is directed to immediately take necessary steps to disburse the same to the workmen, whose claims have been admitted.

D) Further, it appears that the learned Official Liquidator had already rejected the workmen dues to an extent of a sum of Rs.3,46,22,818/- on the proportionate basis and if the said rejected claims were admitted, the workmen, whose claims have been rejected, are entitled for a sum of Rs.1,13,94,325/- on proportionate basis. Hence, M/s.Phonenix ARC Private Limited is directed to keep the said amount in a separate account until the rejected claims attains finality.

E) After making the aforesaid deposits towards provident fund, admitted workmen dues and rejected workmen dues and after deducting the expenses incurred by the M/s.Phonenix ARC Private Limited, the balance amount available for secured creditors is a sum of Rs.27,58,80,980/-. Therefore, after the disbursement as stated above, the learned Official Liquidator is permitted to take credit of their proportionate share of the said amount of a sum of Rs.27,58,80,980/- towards the claims made by the secured creditors.

F) At this juncture, it was fairly submitted by the learned Senior counsel appearing for M/s.Phonenix ARC Private Limited that the aforesaid directions issued by this Court, with regard to the deposit of amount, will be complied with by them within a period of 2 week from the date of receipt of copy of this order and the said submission is recorded.

G) Thereafter, the learned Official Liquidator is directed to disburse the proportionate share of the workmen dues within a period of 4 weeks from the date of deposit by M/s.Phonenix ARC Private Limited.

H) As far as the verification of expenses is concerned, once the expenses are submitted before the learned Official Liquidator by M/s.Phonenix ARC Private Limited, the learned Official Liquidator is directed to verify the same as early as possible.

I) Further, the learned Official Liquidator is directed to file a report before this Court with regard to the disbursement of amount, in the manner stated above.

14. With the above directions, all these applications are disposed of.

21.06.2024

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KRISHNAN RAMASAMY, J.,

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21.06.2024