IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL ORDINARY APPELLATE JURISDICTION
IN ITS COMMERCIAL DIVISION

OFFICIAL LIQUIDATOR'S REPORT NO. 38 OF 2025
IN
COMPANY PETITION NO. 907 OF 2005

In the matter of Emtex Industries (India) Pvt. Ltd. (In Liquidation)

Rasendra Chemexport Pvt. Ltd. **...** Petitioner.

Ms. Akanksha Agrawal, for Official Liquidator.
Mr. Charlse D'Souza (through video conferencing) a/w. Mr. Ashwin Pimpale i/by SSB Legal and Advisory for Onkar Assets Reconstruction Pvt.Ltd. (Secured Creditors)
Mr. Rohan Cama a/w. Rahul Raut for Maliram Makharia Investment Co. Pvt.Ltd. (Secured Creditors).

Coram : Sharmila U. Deshmukh, J.
Date : June 30, 2025

P.C. :

1. The Official Liquidator's Report seeks the following directions:

"a) In view of Para 10 above, This Hon'ble Court may be pleased to permit the Official Liquidator to declare and pay dividend @ 1.8875% to three secured creditors and one workers from the sale proceeds available with the Official Liquidator subject to furnishing an undertaking to bring back the excess amount paid to them if any, arise in future, with the sanction of this Hon'ble Court.

b) In view of Para 11 above, this Hon'ble Court may be pleased to dispense with the requirements of Rule 276 of the Companies (Court) Rules 1959 and permit the Official Liquidator to send the individual dividend notices to three secured creditors and one worker by Speed Post to their last known addresses.

c) If the prayer in (a) above is in affirmative, in view of Para 12 of this report this Hon'ble Court may be pleased to permit the Official Liquidator to open a "Separate Dividend Account" with Punjab National Bank, P.N.B. House, Fort, Mumbai for consolidated amount of Rs.17,86,62,518/- for payment of dividend to 3 secured creditors and one worker and the dividend shall be payable for a period of six months from the date on which the directions / orders are given by this Hon'ble Court for declaration of dividend, and thereafter to transfer the unpaid / unclaimed amount, if any, to the Companies Liquidation Account maintained with the Registrar of Companies, Maharashtra, Mumbai u/s 555 of the Companies Act, 1956.

d) For such other and further directions as this Hon'ble Court may deem and proper."

2. Learned counsel appearing for the Official Liquidator submits that the claims were duly invited and points out to the report which, details the claims received. She would further submit that the claims came to be adjudicated through the Chartered Accountant and the amount which is available for distribution is Rs.17,86,62,518/-. She would further point out the creditors listed in paragraph No.10, who are the secured creditors and one worker and proposed the dividend at the rate of 1.8875%. She would further submit that the requirement of Rule 276 of the Companies (Courts) Rules, 1959 be dispensed with to permit the Official Liquidator to send the individual dividend notice to the secured creditors and the workers by speed post and to permit the Official Liquidator to open a separate dividend account.

3. Learned counsel appearing for two of the secured creditors does not oppose the report and would in fact seek the process to be expedited by permitting the dividends to be directly transferred to their account instead of opening the separate dividend account.

4. As the funds available with the Official Liquidator is set out and the proportionate of percentage of dividend is not opposed, the Official Liquidator is permitted to declare and pay dividend at the rate of 1.8875% to the three secured creditors and one worker from whom the claims have been received from sale proceeds available with the Official Liquidator of Rs.17,86,62,518/-.

5. In order to expedite the process of distribution of dividend, the requirements of Rule 276 of the Companies (Courts) Rules, 1959 is dispensed with and the Official Liquidator is permitted to send individual dividend notice. Though it is sought to be contended that the dividends be disbursed directly into the secured creditors' account instead of opening the separate dividend account, the procedure contemplated under Rule 290 of the Companies (Courts) Rules, 1959 is required to be complied with. However, it would be in the interest of all concerned, if all the process is expedited and the Official Liquidator is directed to transfer the dividend declared within period of four weeks. The Official Liquidator is permitted to open a separate dividend account and to pay the dividend within period of two weeks.

6. Official Liquidator's Report is allowed in the above terms.

[Sharmila U. Deshmukh, J.]