

The Official Liquidator vs Nil

The Official Liquidator vs Nil

SooperKanoon Citation : sooperkanoon.com/1442825

Court : Kerala

Decided On : Jun-17-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : MCA/2/2022

Appellant : The Official Liquidator

Respondent : NIL

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

(Original Jurisdiction) In the matter of the Companies Act, 1956 and In the matter of M/s.Elcera Substrates Ltd. (In Liquidation) M.C.A. No.2/2022 in C.P.No.2/2003 Before: The Honourable Mr. Justice N.NAGARESH Friday, the 17th day of June 2022/27th Jyaishta, 1944 Applicant The Official Liquidator, High Court of Kerala, Ernakulam, Representing M/s.Elcera Substrates Ltd. (in liqn) Respondent Nil Misc. Company Application under Section 457(1)(e) and 555(1)(a) of the Companies Act, 1956 read with Rule 275, 276, 290 and Rule 9 of the Companies (Court) Rules, 1959 filed by the applicant above named praying for an order to:-

i) ratify the action of the Official Liquidator in serving a copy of this application to the Standing Counsel of the Income Tax Department. ii) accord sanction to the Official Liquidator to declare and disburse the 1st dividend @ 4.88 paise in a rupee to the 3 Secured Creditors coming under the category of Section 529, 529 A of the Companies Act, 1956 of the company (in liqn) amounting to Rs.1,80,59,855/-; iii) permit the Official Liquidator to fix 01.03.2022 as the date of

commencement of disbursement of dividend and 31.05.2022 as the last date

of payment of dividend and to transfer the unclaimed amount, if any, into the Companies Liquidation Account after the last date of fixed for payment of dividend as required under Section 555(1) of the Companies Act, 1956;

iv) permit the Official Liquidator to issue dividend notice to the creditors entitled to payment of dividend in Form No.138 of the Companies (Court) Rules, 1959 and incur necessary expenses in this regard; v) permit the Official Liquidator to dispense with the publication of advertisement in newspapers as required under Rule 276 of the Companies (Court) Rules, 1959;

vi) permit the Official Liquidator to close the Fixed Deposit prematurely and transfer the sufficient amount to dividend account. vii) permit the Official Liquidator to open a dividend account with Punjab National Bank, M.G.Road, Ernakulam with a sum of Rs.Rs.1,80,59,855/- as provided under Rule 290 of the Companies (Court) Rules, 1959; viii) permit the Official Liquidator to incur necessary expenses in connection with the declaration and payment of dividend from and out of the funds of the company (in liqn); and ix) pass such other order or orders as may be deemed fit and proper to this Hon'ble Court in the circumstances of the case. This Application coming on for orders on this day upon hearing Sri.K.Moni, Standing Counsel for Official Liquidator and Sri.N.Navaneeth, Standing Counsel representing the Income Tax Department, the Court passed the following:-

N. NAGARESH, J.

----- M.C.A. No.2 of 2022 in C.P.No.2 of
2003 ----- Dated this the 17th day of June,
2022

ORDER

The Official Liquidator, who is the applicant in M.C.A. No.2 of 2022 in C.P. No.2 of 2003 has filed the Judge's Summons with the following prayers:

i) ratify the action of the Official Liquidator in serving a copy of this application to the Standing Counsel of the Income Tax Department. ii) accord sanction to the Official Liquidator to declare and disburse the 1st dividend @ 4.88 paise in a rupee to the 3 Secured Creditors coming under the category of Section 529 and 529 A of the Companies Act, 1956 of the company (in liqn.) amounting to Rs.1,80,59,855/-. iii) permit the Official Liquidator to fix 01.03.2022 as the date of commencement of disbursement of dividend and 31.05.2022 as the

last date of payment of dividend and to transfer the unclaimed amount, if any, into the Companies Liquidation Account after the last date fixed for payment of dividend as required under Section 555(1) of the Companies Act, 1956. iv) permit the Official Liquidator to issue dividend notice to the creditors entitled to payment of dividend in Form No.138 of the Companies (Court) Rules, 1959 and incur necessary expenses in this regard. v) permit the Official Liquidator to dispense with the publication of advertisement in newspaper as required under Rule 276 of the Companies (Court) Rules, 1959. vi) permit the Official Liquidator to close the Fixed Deposit prematurely and transfer the sufficient amount to dividend account. vii) permit the Official Liquidator to open a dividend account with Punjab National Bank, M.G. Road, Ernakulam with a sum of 1,80,59,855/- as provided under Rule 290 of the Companies (Court) Rules, 1959. viii) permit the Official Liquidator to incur necessary expenses in connection with the declaration and payment of dividend

from and out of the funds of the Company (in liqn.).

2. Perusing the affidavit filed in support of the Judge's

Summons, this Court is of the view that the prayers contained in the Judge's Summons are liable to be allowed with necessary modifications. Accordingly, the action of the Official Liquidator on serving a copy on the Standing Counsel appearing for the Income Tax Department is ratified. Sri. N. Navaneeth, Standing Counsel, represented the Income Tax Department.

3. The Official Liquidator is accorded sanction to

declare and disburse the first dividend at the rate of 4.88 paise in a rupee to the 3 Secured Creditors coming under the category of Sections 529 and 529 A of the Companies Act, 1956 amounting to 1,80,59,855/-. The Official Liquidator is permitted to fix 01.07.2022 to 31.07.2022 as the date of commencement of disbursement of dividend and to transfer the unclaimed amount to the companies liquidation account after the last date fixed as required under Section 555(1) of the Companies Act. Prayer Nos.(iv) to (viii) are incidental reliefs and those prayers are also allowed. Sd/- N. NAGARESH JUDGE SR

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com