IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/OFFICIAL LIQUDATOR REPORT NO. 119 of 2018
In
R/COMPANY PETITION NO. 83 of 2013

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OFFICIAL LIQUIDATOR OF KEMROCK INDUSTRIES AND EXPORTS LTD
Versus
ALLAHABAD BANK
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Appearance:
MS PJ DAVAWALA(240) for the Applicant(s) No. 1
OFFICIAL LIQUIDATOR for the Applicant(s) No. 1
RITESH D PATADIA(6460) for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

Date : 16/02/2022
ORAL ORDER

Heard learned advocate Ms.P.J. Davawala for the applicant and learned advocate Mr.Ritesh Patadia for the respondent No.1 through video conference.

2. By this Report the Official Liquidator has prayed for disbursement of the amount to the workers of M/s. Kemrock Industries and Exports Ltd. (Company in liquidation) as per the report of the Chartered Accountants, M/s. Bipin & Co. submitted on 18th September, 2018, which was further revised on 10th December, 2019.

3. The company in liquidation was ordered to be wound up by the orders dated 1st July, 2014 and 5th August, 2014 passed in Company Petition No.83 of 2013 with Company Petition No.122 of 2013 and

other allied matters.

3.1 The Official Liquidator attached to this Court was appointed as Provisional Liquidator with directions to take inventory and possession of the assets and properties of the company in liquidation.

3.2 It appears that thereafter, the secured creditors have been directed to take action under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") as per the order dated 5th November, 2015 passed by this Court in O.J. Appeal No.50 of 2015 in Company Application No.335 of 2015.

3.3 Accordingly, the respondent Allahabad Bank conducted the auction on 30th June, 2017, however, as the said auction could not take place in absence of any bid, further auction was conducted on 30th August, 2017.

3.4 In the e-auction held on 30th August, 2017 M/s. Reliance Industries Ltd. was declared as successful bidder and offered sale price of Rs.605,48,80,000.00. Thereafter, the respondent Allahabad Bank has executed the sale-deed in favour of the successful bidder on payment of the entire sale consideration.

3.5 The respondent Allahabad Bank on realization of the sale consideration informed the Official Liquidator that the amount recovered shall be disbursed in accordance with the provisions of Section 529-A of the Companies Act, 1956 and sought information about the claims of the workmen's dues, if any, so that the same may be remitted by the respondent Allahabad Bank.

3.6 The Official Liquidator vide letter dated 25th September, 2017, addressed to the Allahabad Bank being a lead consortium Bank, informed that this Court has directed to the consortium of Banks lead by the Allahabad Bank to proceed further in association with the Official Liquidator. However, the secured creditors did not associate with the Official Liquidator in any of the proceedings of the company in liquidation and the Official Liquidator was kept out of the decision making process, valuation of assets, fixation of upset price, auction process, etc. It was also informed by the Official Liquidator to the Allahabad Bank that the Official Liquidator was not even made a member of the asset sale committee nor the Official Liquidator was invited in any of the meetings of consortium of Banks, where all decisions were taken regarding valuation, sale and auction of the assets of the company under liquidation. Even for the valuation report of the assets of the company in liquidation, procedure adopted for fixation of upset price were never shared by the respondent Allahabad Bank with the Official Liquidator.

3.7 It was informed that though the valuation of the assets of the company in liquidation was Rs.7,473,502,722/- as per the valuer of the Bank M/s. Multi Engineers and Rs.6,744,787,000/- as per the valuation report of M/s. RSBA Valuation Advisors LLP, the valuation was reduced to Rs.605,48,80,000/- during the second attempt of sale without the knowledge of the Official Liquidator and the property was sold only to the single bidder M/s. Reliance Industries Ltd. who participated in the auction and without carrying out any inter-se-bidding, the sale was confirmed in favour of the successful bidder. The Official Liquidator conveyed the objections against the entire process of sale carried out by the consortium of Banks lead by the Allahabad Bank. It was also informed that the respondent Allahabad Bank did not follow the directions issued by this Court vide order dated 4th May, 2015 passed in Company Petition No.83 of 2013 and allied matters read with order dated 5th November, 2015 passed in O.J. Appeal No.50 of 2015 and allied matters and ignored the fact that the assets of the company in liquidation vest with the winding-up Court and the Official Liquidator of the company in liquidation is in-charge of the assets with symbolic possession thereof.

3.8 Accordingly, the consortium of Banks were requested to clarify with supporting documents about what are the assets which are yet to be taken over by the Bank and yet to be sold , so that the Official Liquidator can proceed for further action in association with the creditors. According to the Official Liquidator, the outstanding dues of the workmen as per the Statement of Affairs filed by the Ex-Directors of the company was to the tune of Rs.6 Crore approximately.

3.9 Accordingly, the consortium of Banks were requested to deposit Rs.15 Crore from the sale proceeds received from the purchaser.

3.10 The Allahabad Bank, thereafter, deposited Rs.15 Crore on 28th September, 2017 towards ad-hoc payment for outstanding dues of the workers of the company in liquidation.

3.11 The Allahabad Bank by letter dated 16th October, 2017 replied to the queries raised by the Official Liquidator stating that the auction process was conducted as per the order passed by this Court in OJ Appeal No.50 of 2015 and the Allahabad Bank is ready to pay excess amount if more amount is required for payment of the workmen’s dues.

3.12 This Court passed the order dated 13th December, 2017 in Official Liquidator Report No.150 of 2017 permitting the Official Liquidator to issue advertisement inviting the claims of the workers of the company in liquidation and to appoint Chartered Accountant for verification of such claim.

3.13 The Official Liquidator thereafter, appointed M/s. Bipin & Co., Chartered Accountants vide letter dated 23rd March, 2018 for the purpose of verification of claims of the workers of the company in liquidation.

3.14 M/s. Bipin & Co., Chartered Accountants submitted their first report dated 18th September, 2018 for verifying claims of the workers of the company in liquidation and as per the said report total amount of Rs.12,91,29,873/- was found payable towards workmen's dues of the company in liquidation.

3.15 It appears that thereafter, the Allahabad Bank raised objections with regard to the claims of one Mr.Ashok Dube who was found eligible by the Chartered Accountant for payment of Rs.40,41,195/-. The Official Liquidator Therefore, again approached the Chartered Accountant and obtained the revised report dated 10th December, 2019, wherein, the Chartered

Accountant reduced the claims of Mr.Ashok Dube and further quantified the claim after including the other additional claims as per the Official Liquidator's further submission dated 27th September, 2018, 23rd January, 2019, 27th March, 2019 and 19th September, 2019 and submitted that the amount of Rs.13,04,71,480/- is payable to about 607 workmen/employees of the company in liquidation.

4. On perusal of the revised report of the Chartered Accountants, M/s. Bipin & Co. dated 10th December, 2019, it appears that the Chartered Accountant has permitted the claim of the workers including the managerial personnel. In such circumstances, it would be necessary to verify the claim of the following persons in the report:

Sr.No.	**Employee Name**	**Total**
2	Mistry Kantilal C	29,33,982
3	Patel Mahendra Revabhai	24,27,220
4	Jain Sanjeev Kumar	77,80,938
5	Trivedi Dhananjay	13,95,544
6	Patel Shailesh C	6,66,724
7	Shah Jignesh C	13,78,000
9	Patel Hiren S.	8,08,500
12	Patel Sachin M	8,28,447
15	Parmar Nilesh D	9,89,500
76	Memarath Venugopalan Nair	16,83,320
112	Gamit Shankarbhai G	7,52,500
113	Patil Lotanbhai B	7,00,000
114	Rishi Dixit N.	6,67,000

487	Shah Biren R.	7,43,881
488	Ghori Bismillakhan	7,15,686
489	Tiwari Satyaprakash	7,62,864
493	Mistry Jikesh A.	9,28,259
499	Pandya Dipakkumar L.	7,67,456
516	Pathak Naimish	6,20,181
528	Bhatt Rameshchandra	6,55,661
549	Dhami Lisa A.	8,91,323
551	Brahmkshatriya Dinesh L.	6,03,188
552	Pandya Daxesh	9,10,687
572	Dennis Schultz	90,49,774
573	Soni Pramodbhai N	86,85,000
574	Shah Jignesh Chimanlal	13,78,000
618	Ajay Mehra	34,32,000

5. The Official Liquidator is directed to place relevant documents of the aforesaid claims which are approved by the Chartered Accountant for further verification by this Court and thereafter, the disbursement qua the aforesaid claims shall be made pursuant to the further orders to be passed.

6. The Official Liquidator is also directed to explain in the further report with regard to the summary of claim verification report at page no.145 of the paper-book.

7. The Official Liquidator is permitted to disburse the amount to the remaining workers except the aforesaid workers and their claims within a period of four weeks from today through RTGS/NEFT in the respective Bank accounts of the

workers as per the details given in the claim made by the workers according to the revised report of the Chartered Accountant.

8. The Official Liquidator is further directed to place on record the statement of disbursement made to each of the workers as permitted hereinabove after the disbursement of the amount to the respective workers.

9. Stand over to **25th February, 2022,** so as to enable the Official Liquidator to place on record the relevant documents of the claim of the workers/staff as stated hereinabove.

To be listed on top of the Board.

(BHARGAV D. KARIA, J)

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