

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

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Company Application No.164 of 2010

in

Company Petition No.36 of 1990

in

R.C.C.No.2 of 1996

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In the matter of M/s.Suchitra Teletubes Limited (In liquidation)

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Dated:11th March, 2010

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ORDER:

This is an application filed by the Official Liquidator representing M/s. Suchitra Teletubes Limited (in liquidation) under Section 460 of the Companies Act, 1956 (for short, 'the Act') read with Rules 9 and 168 of the Companies (Court) Rules, 1959, seeking the following reliefs:

- i) declare a dividend @ 38.92% in a rupee to IDBI, IFCI, ICICI, S.B.I. & Indian bank secured creditors and Workmen as detailed in the statement marked as Annexure-B;
- ii) authorize Official Liquidator to open a separate dividend account in Punjab National Bank and pay the dividend to secured creditors/workmen out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959;
- iii) dispense with the publication of notice of dividend in newspapers;
- iv) authorize Official Liquidator to send individual notices of dividend in form No.138 along with 139;
- v) authorize Official Liquidator to fix the schedule for making payment;

- vi) authorize Official Liquidator to transfer the un-paid dividend, if any, remaining in the dividend account, after the expiry of the 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956;
- vii) authorize Official Liquidator to pay dividend due to any deceased creditor to his legal heirs upon production by such legal heirs, a family member certificate or such other certificate instead of producing a succession certificate and also upon furnishing personal indemnity, in terms of Rule 280 of the Companies (Court) Rules, 1959;
- viii) authorize Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of dividend and to effectively implement the orders of this Hon'ble Court in that regard;
- ix) order that the costs of this application do come out of the Estate of the company (In liquidation); and pass such further or other order or orders as this Hon'ble High Court may deem fit and proper."

2. D.Vijaya Bhaskar, Official Liquidator attached to this Court has sworn to the affidavit filed in support of the application. It is stated in the affidavit that the applicant Company came to be ordered to be wound-up on 18.07.1996 in C.P.No.36 of 1990 and R.C.C.No.2 of 1996 and appointed the Official Liquidator as its liquidator. The Official Liquidator sold the assets of the company and realized Rs.3,74,00,000/-. The Official Liquidator invited claims from the creditors of the Company and the same came to be published in Deccan Chronicle and Vaartha on 27.09.1998 fixing the last date of receipt of the claims as 23.10.1998. In response to the said notice, the Official Liquidator received 12 claims. The Official Liquidator adjudicated the claims of the secured creditors and workmen by issuing respective Forms 69 and 70 as the case may be. The claim of Provident Fund Department is pending for want of proof. The claims of APSEB, Medak, M.R.O., Toopran, Commercial Tax Officer, Jeedimetla, Income Tax Department, M/s.Bharat Electronics Limited, were either qualify as preferential or un-secured debts, and therefore, the claims were not adjudicated since the same would not serve any fruitful purpose as they are not likely to yield any dividends. The claims of 94 workmen came to be adjudicated and the same got

approval of this Court vide Order dated 23.11.2006 passed in C.A.No.1604 of 2006. The claims of the secured creditors viz., IDBI, IFCI, ICICI, SBI, Indian Bank have been admitted to the extent indicated therein and therefore, Form No.71 is required to be varied including the above referred banks. Paras.6 and 7 of the affidavit filed in support of the application need to be noted and they are thus:

“6. That as on the date a sum of Rs.91,45,650.06 ps. is available to the credit of the company. Hence, it is just and necessary that dividends be declared to the entitled creditors. In this regard the Official Liquidator had prepared a statement showing the receipts & payments/expenditure of the company along with the amounts available for dividends after adjusting interim payments. However, in respect of claim of Provident Fund Department, which is pending for want of proof, it is pertinent to state that if on adjudication, the said claim is either admitted wholly or partly as a secured debt, there may be a charge in the proportionate shares of all the creditors to whom the dividends are now being proposed. In order to overcome the said eventuality, Official Liquidator intends to set apart a sum equivalent to the claim of Provident Fund Department while working out the dividends in respect of the claims of other creditors which are pending for adjudication as mentioned at para No.3, no provision is being made as they are not likely to receive any dividends.

7. That, the Official Liquidator herein submits that Rule 275 of the Companies (Court) Rules, 1959 stipulates that no dividend to the creditor or return of capital to contributories shall be declared by the Official Liquidator without the sanction of the Hon'ble Court and Rule 276 of the said Rules stipulates that the Official Liquidator shall give notice of the declaration of dividend not less than one month prior to the date fixed for payment thereof and unless otherwise directed by the Hon'ble Judge such notice shall be given by advertisement in Form No.137 in such news paper as the Hon'ble Judge shall direct and by sending by pre-paid letter post under certificate of posting a notice in Form No.138 to every person whose name appears in the list of the creditors as on such date. The Official Liquidator therefore submits that this Hon'ble Court may be pleased to permit the Official Liquidator to declare a dividend as detailed in para.6. Further, be pleased to direct that notices to every creditor as per the list of creditors as per Annexure-“C” be issued in form No.138 of the Companies (Court) Rules, 1959 dispensing the publication of Dividend Notice in News Papers as the same involves huge expenditure while the dividend proposed is only to 99 creditors of the

company who are being individually informed.”

3. Heard learned counsel appearing for the Official Liquidator and perused the material brought on record.

4. Since the Official Liquidator considered the claims of the secured creditors whose names are stated supra and communicated the same in Form No.69 with regard to admission of their claims to the extent indicated therein, I do not see any impediment in granting the reliefs as sought for by the Official Liquidator.

5. Accordingly, the Company Application is ordered.

B.SESHASAYANA REDDY, J.

Date:11th March, 2010.

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