

In the National Company Law Tribunal,
Kolkata Bench, Kolkata

CA (CAA) No.262/KB/2017

CP (CAA) No.578/KB/2017

In the matter of:

An application under Sec.230 – 232 of the Companies Act, 2013 read with Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

And

In the matter of:

Anamika Iron and Steel Private Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 2FR, FL-205, 44, Hazra Para Lane, LP-102/19/1, Bally, Howrah, West Bengal.

And

In the matter of:

Incom Exports Private Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 11, Sarat Bose Road, Kolkata – 700 020, West Bengal.

And

In the matter of:

Laxmidhan Niketan Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 10, Middleton Street, 2nd Floor, Kolkata – 700 071, West Bengal.

And

In the matter of:

Saket Mercantiles Private Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata – 700 001, West Bengal

And

In the matter of:

Shivaasha Vinimay Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 2FR, FL-205, 44, Hazra Para Lane, Bally, LP-102/18/1, Howrah, West Bengal – 711 201

And

In the matter of:

Ultra Vanijya Private Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata – 700 001, West Bengal

And

In the matter of:

Panghat Marketing Private Limited, a company incorporated under the provisions of the companies Act, 1956 having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata – 700 001, West Bengal

And

In the matter of:

1. Anamika Iron and Steel Private Limited
2. Incom Exports Private Limited
3. Laxmidhan Niketan Limited
4. Saket Mercantiles Private Limited
5. Shivaasha Vinimay Limited
6. Ultra Vanijya Private Limited
7. Panghat Marketing Private Limited

.....Petitioners

Order Delivered on 12th March 2018

Coram:

Jinan K.R., Member (J)

For the Petitioners

: 1. Mr. D. N. Sharma, Advocate
2. Ms. Bidisha Achari, PCS

For the Regional Director (ER),
Ministry of Corporate Affairs

: Ms. Tiainla, Deputy Director

ORDER

Per Jinan K.R., Member (J)

This application has been filed by the Applicant Companies, namely, (1) Anamika Iron and Steel Private Limited, (2) Incom Exports Private Limited, (3) Laxmidhan Niketan Limited, (4) Saket Mercantiles Private Limited, (5) Shivaasha Vinimay Limited and (6) Ultra Vanijya Private Limited [hereinafter referred to as the

Transferor Companies] with Panghat Marketing Private Limited [hereafter referred to as the Transferee Company] under Section 230 to 232 of the Companies Act, 2013 and their respective shareholders for obtaining sanction of this Tribunal regarding Scheme of Amalgamation proposed to be made between the Transferee Company and the Transferor Companies and their respective shareholders. A copy of the Scheme of Amalgamation has been annexed with the application as Annexure A.

2. The object of this application is to ultimately obtain sanction of this Tribunal to a Scheme of Amalgamation proposed to be made between the applicant companies and their respective shareholders under the Scheme of Amalgamation whereby and whereunder: -

i. The undertaking of the Transferor Companies as a going concern together with all its assets and liabilities will stand transferred to and vested in the transferee company with effect from 1/4/2016.

3. It is stated in the application that all the Transferor Companies and the Transferee Company are engaged in the same line of business and the applicant companies have identical shareholders and are managed and controlled by same group and, as such, proposed to merge all the entities in a single entity.

4. The applicant further submitted that the proposed merger shall reduce the administrative cost involved in maintaining multiple entities and shall remove multiple layer inefficiencies and to achieve operational and management efficiency.

5. The applicant further submitted that by the proposed merger the financial resources of all the companies will be continently and merged and pooled together leading to a more effective and centralized management. The same will strengthen the position of the merged entity. The applicants further submitted that the proposed merger will lead to direct and indirect tax efficiencies and simplify shareholding structure.

6. It reveals from the record that the Board of Directors of the applicant companies at the meetings held on 7/3/2017 unanimously approved the Scheme of Amalgamation of the Transferor Companies with the Transferee Company. Copy of the Board resolution dated 7/3/2017 is annexed with the application and marked as Annexure I.
7. It appears from the record that vide order of the Tribunal dated 2/8/2017 directions were issued to convene meeting of the equity shareholders and creditors of all the petitioner companies were dispensed with and in compliance of the said order a notice was published in two newspapers once in English and the other in Bengali on 18/8/2017.
8. It further appears from the record that in compliance of the order dated 2/8/2017 of this Tribunal, notice in Form CCA-3 along with Scheme of Amalgamation, Explanatory Statements were duly served upon the authority concerned. A copy of the Affidavit of Compliance is annexed with the application and marked as Annexure K.
9. It appears from the record that the applicant companies have filed with the application copy of Chartered Accountant's Certificate under Sec.133 of the Companies marked as Annexure L.
10. Regional Director, Eastern Region, Ministry of Corporate Affairs at Kolkata has filed an affidavit on 15/1/2018 wherein it has been submitted that no complaint and/or representation has been received against the proposed Scheme of Amalgamation and the proposed scheme of amalgamation is not prejudicial to the interest of members/shareholders and/or public. As such, the Central Government has decided that the instant petition/scheme need not be opposed.
11. Official Liquidator submitted report dated 1/1/2018 wherein the OL opined that the affairs of the transferor companies have not been conducted in a manner prejudicial to the interest of the members or to the public.

12. Heard Ld. Counsel for the applicants and authorized representative of Regional Director, Eastern Region, Ministry of Corporate Affairs at Kolkata. In view of absence of any objection and since all the requisite compliance has been fulfilled, the following order is passed: -

ORDER

- (a) The Scheme of Amalgamation annexed with the application as Annexure A be sanctioned so as to binding on all the equity shareholders of the applicant companies and all concerned with effect from 1/4/2016.
- (b) All the assets and properties of the Transferor Companies be transferred without any further act or deed to Transferee Company with all the estate and interest of Transferor Companies pursuant to Sec.232 read with Sec.230 of the Companies Act, 2013.
- (c) All the liabilities and duties of the Transferor Companies be transferred without further act or deed to Transferee Company and shall become liabilities and duties of Transferee Company pursuant to Sec.232 read with Sec.230 of the Companies Act, 2013.
- (d) All employees of the Transferor Companies to be transferred to the Transferee Company.
- (e) All proceedings and/or suit and/or appeals now pending by or against the Transferor Companies shall be continued by or against the Transferee Company.
- (f) Leave is granted to the petitioners to file schedule of assets of the Transferor Companies within four weeks of the date of this Order.
- (g) The Transferor Companies and the Transferee Company do within 30 days of receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies, West Bengal for registration and on such certified copy being so delivered, the Transferor Companies shall be dissolved and the Registrar of Companies shall place all documents relating to the

Transferor Companies and register with him on the file kept by him in relation to the Transferee Company and the files relating to the said companies shall be consolidated accordingly.

- (h) The Transferee Company to allot shares to the shareholders of the Transferor Companies post amalgamation.
- (i) Dissolution without winding up of the Transferor Companies.
- (j) After dissolution of the Transferor Companies, the fee paid by the Transferor Companies on their authorised share capital to be set off against the fee payable by the Transferee Company on its authorised share capital subsequent to the amalgamation.

Any person interested shall be at liberty to apply before the Tribunal in the above matter for such directions as may be necessary.

The petition being CA (CAA) No.262/KB/2017 [in CP (CAA) No.578/KB/2017] is disposed of accordingly.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.


Jinan K.R.
Member (J)

Signed on 12th March 2018