

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

TP No. 130/KB/2017

Arising out of Company Petition No. 1088 of 2016
Connected with Company Application No. 742 of 2016

IN THE MATTER OF:

An Application under Section 391(2) and 394 of the
Companies Act, 1956 ;

-And-

IN THE MATTER OF:

1. EASTERN NEWSPAPERS PRIVATE LIMITED, a
company incorporated under the Companies Act, 1956 ;
and having its Registered Office at Radhasagar,
Ground Floor, 8, Moira Street, Kolkata – 700 017, in the
State of West Bengal, within the aforesaid jurisdiction ;

And

2. DIPCO PRIVATE LIMITED, a company
incorporated under the Companies Act, 1956 ; and
having its Registered Office at Radhasagar, Ground Floor,
8, Moira Street, Kolkata – 700 017, in the State of West
Bengal, within the aforesaid jurisdiction ;

And

1. EASTERN NEWSPAPERS PRIVATE LIMITED
2. DIPCO PRIVATE LIMITED

... Petitioners

Date of pronouncement of the Order : 05-03-2018

Coram : Mr. Jinan K. R., Member(Judicial)

For the Petitioners:

Mr. Patita Paban Bishwal, Advocate

Mr. Avik Chaudhuri, Advocate

Ms. Tia Inla, Deputy Director, C/o. Regional Director, Eastern Region, Ministry of Corporate Affairs

Per Jinan K.R. Member(Judicial)

ORDER

1. The object of this petition is to ultimately obtain sanction of this Tribunal to the Scheme of Amalgamation of the Transferor Company, namely, Eastern Newspapers Private Limited with the Transferee Company, namely, Dipco Private Limited, whereby and where under the entire undertakings of the Transferor Company, as a going concern, together with all the assets and liabilities relating

thereto, is proposed to be transferred to and be vested in the Transferee Company on the terms and conditions and in the manner fully stated therein.

2. A copy of the Scheme of Amalgamation annexed with the Petition and the same is marked with Annexure "A".

3. The Scheme of Amalgamation has been proposed, inter alia, to specific group structure and provide for overall business efficiency to combine their managerial and marketing strength, to streamline administration, to build a wider capital and financial base and to promote and secure the overall interest growth and economics of all the companies concerned.

4. The Scheme of Amalgamation would ensure higher retained earning leading to enhanced intrinsic value of shareholding to the investors.

5. The Scheme of Amalgamation will have beneficial results for all the Petitioner Companies concerned, their shareholders, employees and concerned.

6. The Board of Directors of all the Petitioner Companies, have at their respective Board meetings, by a resolution passed unanimously approved the said Scheme of Amalgamation.

7. By an Order made in the Company Application No. 742 of 2016, dated 26-09-2016, the Hon'ble High Court was pleased to direct that meeting of the equity shareholders of the Petitioner Company Nos. 1 and 2, be convened and held for the purpose of considering and if thought fit, approving with or without modification the said Scheme of Amalgamation.

8. A website copy of the said order dated 26-09-2016 is annexed with the Petition and marked with Annexure "F".

9. Notice of the said meetings was served individually by Speed Post and hand delivery on each of the shareholders of the Petitioner Company Nos. 1 and 2, as required by the said Order together with a copy of the Scheme of Amalgamation and of the statement required under Section 393 of the Companies Act, 1956 and a form of Proxy.

10. Further necessary advertisement of notice convening meetings of the shareholders was also published in the newspaper as directed by the said order.

11. On the 4th November, 2016, the said meetings of the equity shareholders of the petitioner company Nos. 1 and 2 was duly convened and in accordance with the said order, was held at Radhasagar, Ground Floor, 8, Moira Street, Kolkata – 700 017 and all the equity shareholders attending and voting at the said meeting, unanimously approved the said Scheme of Amalgamation without any modification.

12. The Chairman of the meetings had reported the result of their respective meetings to the Hon'ble High Court, Calcutta.

13. The true copies of the said reports are collectively annexed with the Petition and marked with Annexure "G".

14. It has been stated in the Petition that the assets of the Petitioner Companies are sufficient to meet all their liabilities and the Scheme of Amalgamation will not adversely affect the rights of any of the Creditors of any of the Petitioner Companies in any manner whatsoever.

15. The Petitioner Companies made due provisions for payment of all the liabilities as and when the same will fall due.

16. It has also been stated in the Petition that there are no proceedings pending under Sections 235 to 251 of the Companies Act, 1956 against any of the Petitioner Companies.

17. It has further been stated that no one will be prejudiced if the proposed Scheme of Amalgamation is sanctioned and the sanction of the Scheme of Amalgamation will benefit and is in the interest of the said Companies, their shareholders and all concerned.

18. In terms of the Circular of the Ministry of Corporate Affairs, present petition has been transferred from the Hon'ble High Court, Calcutta to file the same before the National Company Tribunal, Kolkata Bench.

19. Heard the arguments of the Ld. Counsel for the petitioner Companies.

20. Let notice be served as per requirements of sub section (5) of section 230 of the Companies Act, 2013 along with all the documents including a copy of the Scheme of Amalgamation and the statement disclosing necessary details, on the Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, the Registrar of Companies, West Bengal and the concerned Income-Tax Assessing Officer along with the Chief Commissioner of Income Tax with PAN numbers of the Petitioner Companies, by hand delivery through personal messenger or by Speed post, E-Mail, both, and also on the Official Liquidator attached to the High Court, Calcutta, having jurisdiction over the Transferor and the Transferee Companies and such other relevant sectoral regulator/authorities, if applicable, which are likely to be affected by the Scheme of Amalgamation by hand delivery through personal messenger or by Speed Post or by Registered Post and e-mail, both, within 7 days from the date of

publication of this order for filing their representation, if any on the petition within 30 days from the date of notice.

21. The Petitioner Companies shall file an affidavit, along with the copy of the notice within 7 days regarding service of the notice.

22. The petitioner Companies shall send notice through e-mail also and file copies of the mails along with an affidavit. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the petitioners and their advocates, if no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Amalgamation.

23. Such notices shall be sent under section 230(5) of the companies act, 2013 in Form no. CAA.3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 with necessary variations incorporating the directions therein.

24. Let the advertisement of the hearing of this petition be published once in the same local English daily newspaper "The Business Standard" and in the Bengali daily newspaper "Aajkal", as were earlier published, stating the PAN numbers of all the petitioner companies, at least 10 days before the date fixed

for hearing in Form No. NCLT 3A of the National Company Law Tribunal Rules, 2016 with necessary variations.

25. The Petition is fixed for hearing on 26-04-2018.

26. Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

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(Jinān K.R.)
Member(Judicial)

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