

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CORAM : Shri Vijai Pratap Singh
Hon'ble Member (J)
&
Shri Jinan K.R.
Hon'ble Member (J)

C.P. No. 578 of 2017 connected with CA (CAA) No. 262/KB/2017
and IA (CAA) No. 263/KB/2017

In the matter of:

The Companies Act, 2013;

-And-

In the matter of:

An Application under Sections 232 (3) of the Companies Act, 2013 read with Rule 15 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016;

-And-

In the matter of:

1. ANAMIKA IRON AND STEEL PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 2 FR, FL-205, 44, Hazra Para Lane, LP-102/18/1 Bally, Howrah, West West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

2. INCOM EXPORTS PRIVATE LIMITED, a company incorporated

under the Companies Act, 1956 and having its registered office at 11, Sarat Bose Road, Kolkata-700020 within the aforesaid Jurisdiction;

-And-

In the matter of:

3. LAXMIDHAN NIKETAN LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 10, Middleton Street, 2nd floor, Kolkata-700071, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

4. SAKET MERCANTILES LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction.

-And-

In the matter of:

5. SHIVAASHA VINIMAY LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 2FR, FL-205, 44, Hazra Para Lane, (Bally) LP-102/18/1, Howrah, West Bengal-711201 within the aforesaid jurisdiction;

-And-

In the matter of:

6. ULTRA VANIJYA PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

7. PANGHAT MARKETING PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd Floor,

Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

1. ANAMIKA IRON AND STEEL PRIVATE LIMITED
2. INCOM EXPORTS PRIVATE LIMITED
3. LAMXIDHAN NIKETAN LIMITED
4. SAKET MERCANTILES PRIVATE LIMITED
5. SHIVAASHA VINIMAY LIMITED
6. ULTRA VANIJYA PRIVATE LIMITED
7. PANGHAT MARKETING PRIVATE LIMITED

.... Petitioners

Counsels on Record:

1. Ms. Pritha Bose, PCS] For the Petitioners

Date of pronouncing the order: 21/11/2017

ORDER

Per Shri V. P. Singh, Member (J)

This is a Joint petition filed by the Petitioners namely, Anamika Iron and Steel Private Limited, Incom Exports Private Limited, Laxmidhan Niketan Limited, Saket Mercantiles Private Limited, Shivaasha Vinimay Limited and Ultra Vanijya Private Limited (herein the "Transferor Companies") and Panghat Marketing Private Limited (herein "Transferee Company") under Section 232 (3) of the Companies Act, 2013 read with Rule 15 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of amalgamation proposed between Anamika Iron and

Steel Private Limited, Incom Exports Private Limited, Laxmidhan Niketan Limited, Saket Mercantiles Private Limited, Shivaasha Vinimay Limited and Ultra Vanijya Private Limited with Panghat Marketing Private Limited and their respective shareholders. A copy of the Scheme has been Annexed as Annexure A with the petition.

The object to this petition is to obtain sanction of this Hon'ble Tribunal to the Scheme of amalgamation (hereinafter referred to as the "said Scheme" or "scheme") proposed to be made between the Transferee Company, Panghat Marketing Private Limited and the Transferor Companies, (i) Anamika Iron and Steel Private Limited and (ii) Incom Exports Private Limited (iii) Laxmidhan Niketan Limited (iv) Saket Mercantiles Private Limited (v) Shivaasha Vinimay Limited (vi) Ultra Vanijya Private Limited and their respective shareholders whereby and whereunder the entire 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 1st April, 2016 in a manner provided in the Scheme of amalgamation.

From the records, it is seen that the First Motion seeking directions for dispensing the meeting of the Equity shareholders and creditors were filed before Tribunal in CA (CAA) No. 262 (KB) 2017 and IA (CAA) No. 263 (KB) 2017. Based on such Joint Application moved under Sections 230-232 of the Companies Act, 2013, directions were issued by the Tribunal on 2nd of August, 2017, wherein the meetings of the Equity Shareholders and creditors were

dispensed with as consent letters along with the Affidavits from them had been obtained by the petitioner Companies for the approval of the scheme and submitted by the Applicants before the Tribunal at the time of dispensation of the meetings or there being none which obviated the necessity of convening of the meeting.

In compliance with the order dated 2nd of August, 2017, passed by the Hon'ble Tribunal in CA (CAA) No. 262 (KB) 2017 and IA (CAA) No. 263 (KB) 2017, the petitioners served notices to the Central Government through Regional Director, Registrar of Companies, West Bengal and other Sectoral Regulatory Authorities.

Subsequent to the Order, now after filing the Second motion before this Hon'ble Tribunal and perusing the documents submitted by the petitioners, the following orders are passed.

- a) The date of hearing of the Joint Peititon filed by the Petitioner for the sanction of the Scheme is fixed on 16th of January, 2018.
- b) Notice of the hearing of this petition in form NCLT 3A shall be advertised once in English daily, "Business Standard" and in Bengali daily, "Aajkal" newspaper same as was made earlier in 1st motion not less than 10 days before the aforesaid date fixed for hearing.
- c) In addition to the above public notice, the petitioner companies shall serve notice of the petition on the following authorities namely
(a) Central Government through Regional Director, Eastern Region,

Ministry of Corporate Affairs. (b) Registrar of Companies, West Bengal (c) The Income Tax Department of the office having jurisdiction over the respective petitioner companies, (d) Reserve Bank of India and such other relevant sectoral regulators/authorities, if applicable, which are likely to be affected by the proposed scheme by sending the same by hand delivery through Special Messenger or by registered post or speed post within 7 days from the date of this order for filing their representations, if any on the petition. Notice along with the copy of the application and other related documents should be served upon the Chief Commissioner of Income Tax and the Assessing Officer of the Income Tax Department by Mail and Speed Post or by Messenger. Applicant Companies are also directed to mention their respective PAN Nos. everywhere.

d) The notice shall specify that representations, if any should be filed before this Tribunal within 30 days of date of receipt of the notice with a copy of such representations being sent simultaneously to the petitioners and/or their Authorized Representatives. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the Scheme of Amalgamation.

e) All the petitioner companies shall at least 7 days before the date of hearing of the petition file an affidavit of service in relation to the

Paper Publication as well as service of notices on the Authorities specified above including the Sectoral Regulators.

The next date of hearing is fixed on 16th January, 2018 for further order.

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

Sd/-
(Jinan K.R)
Member (J)

Sd/-
(V. P. Singh)
Member (J)

Signed on this, the 21st day of November, 2017

Mst/PS