

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CORAM

Shri Vijay Pratap Singh
Hon'ble Member (J)

Shri S. Vijayaraghavan
Hon'ble Member (T)

C.P.(CAA) No. 375/KB/2017

In the matter of :

The Companies Act, 2013 (The Act);

-And-

In the matter of :

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

-And-

In the matter of:

1. AMPI Finance Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 22, R.N. Mukherjee Road, 3rd floor, Kolkata – 700 001 West Bengal within the aforesaid Jurisdiction;
2. AMPI Projects Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 22, R.N. Mukherjee Road, 3rd floor, Kolkata – 700 001 West Bengal within the aforesaid Jurisdiction;
3. PKD Projects Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 22, R.N. Mukherjee Road, 3rd floor, Kolkata – 700 001 West Bengal within the aforesaid Jurisdiction;
4. Atlantic Vintrade Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 22, R.N. Mukherjee Road, 3rd floor, Kolkata – 700 001 West Bengal within the aforesaid Jurisdiction;

-And-

In the matter of:

1. AMPI Finance Limited;
2. AMPI Projects Private Limited;
3. PKD Projects Private Limited
4. Atlantic Vintrade Private Limited

.... **PETITIONERS**

Counsels on Record:

- | | |
|--------------------------------------|-----------------------|
| 1. Mr. Manoj Kumar Banthia, Pr. C.S. |] For the Petitioners |
| 2. Ms. Pritha Bose, Pr.C.S. |] |

Date of Pronouncing the order :9.8.17

ORDER

This Company Petition has been filed by the Petitioner Companies, namely, AMPI Projects Private Ltd., PKD Projects Private Ltd. and Atlantic Vintrade Private Ltd. (herein the "Transferor Companies") and AMPI Finance Limited (herein "Transferee Company") under Section 230 to 232 of the Companies Act, 2013 for obtaining sanction of this Tribunal regarding Scheme of Amalgamation of the above-mentioned companies.

The object of this is to ultimately obtain sanction of this Tribunal to the proposed Scheme of Amalgamation to be made between the Transferor companies, Transferee Company and their respective shareholders whereby and whereunder the entire undertaking of the Transferor Companies with all assets and liabilities relating thereto as a going concern is proposed to be transferred to and vested in the Transferee Company.

From the records, it is found that the first motion seeking dispensation from conducting the meeting of the creditors of the petitioner companies were filed before the Tribunal vide CA No.113/2017 and based on such application moved under section 230-232 of the Companies Act, 2013, directions were issued by the Hon'ble Bench on 4th April, 2017, wherein the meeting of the secured and unsecured creditors of the petitioner companies were dispensed with as written consent by way of affidavit had been obtained by all the petitioner companies for the approval of the scheme. However, in relation to the equity shareholders of the petitioner companies, directions were given to convene the meeting of the equity shareholders of the petitioner companies at their respective registered offices for the purpose of obtaining their approval for the proposed scheme of amalgamation.

In compliance with the order dated 04.04.2017 of this Tribunal in CA no.113/KB/2017, the petitioners served notices of the meeting on statutory authorities, the Central Government through Regional Director, Registrar of Companies, West

Bengal, Income Tax Department, Kolkata through registered post. Further, notice was also published in "Business Standard" and "Aajkal" on 08.04.2017. Individual notices were served by Personal Messenger to the respective equity shareholders of the petitioner companies. An Affidavit of Service dated 1st May, 2017 (wrongly mentioned as 1st April, 2017 in the forwarding letter) was filed with the Registry on 2nd May, 2017 in respect of service and publication. Despite service of notices, as aforesaid in terms of the order, the petitioner companies have not received any objection or representation under Rule 8 of the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016.

After scrutiny of the documents filed along with the petition by the petitioner companies, it is seen that the report of the Regional Director, Official Liquidator and the concerned Income Tax Department under the jurisdiction of the petitioner companies has not been received at this end. The petitioners are directed to expedite the matter and file supplementary affidavit annexing the documents from the above authorities.

List the matter on 30/08/2017 for further hearing.

Urgent Photostat copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

Sd/-
(Vijai Pratap Singh)
Member (Judicial)

Dated, the 9th day of August, 2017