

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

CORAM

Shri Vijai Pratap Singh
Hon'ble Member (J)

Shri S. Vijayaraghavan
Hon'ble Member (T)

T. P. No.86 of 2017
[Company Petition No.973 of 2016]
[Company Application No.708 of 2016]

In the matter of : Section 391(2) and 394 of the Companies Act, 1956 ;

And

In the matter of :

1. Ujjwal Barter Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 238A, A. J. C. Bose Road, 2nd floor, Suit No. 2B, Kolkata 700 020, West Bengal, within the aforesaid jurisdiction.
2. Ramanlal Madanlal Trading Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 238A, A. J. C. Bose Road, 2nd floor, Suit No. 2B, Kolkata 700 020, West Bengal, within the aforesaid jurisdiction.

3. Nirjhar Vypaar Private Ltd., a company incorporated under the Companies Act, 1956, having its Registered Office at 34, Ganesh Chandra Avenue, 4th Floor, Suite No. 16, Kolkata 700013, within the aforesaid jurisdiction.
4. Nirjhar Vypaar Private Limited, a company incorporated under the Companies Act, 1956, having its Registered Office at 34, Ganesh Chandra Avenue, 4th Floor, Kolkata 700013, within the aforesaid jurisdiction.
5. G K S Finvest Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 238A, A. J. C. Bose Road, 2nd floor, Suit No. 2B, Kolkata 700 020, West Bengal, within the aforesaid jurisdiction.
6. Calcutta Fan (1995) Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 238A, A. J. C. Bose Road, 2nd floor, Suit No. 2B, Kolkata 700 020, West Bengal, within the aforesaid jurisdiction.
7. G S Global Projects Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 238A, A. J. C. Bose Road, 2nd floor, Suit No. 2B, Kolkata 700 020, West Bengal, within the aforesaid jurisdiction.

And

In the matter of :

1. Ujjwal Barter Private Limited
2. Ramanlal Madanlal Trading Private Limited
3. Nirjhar Vypaar Private Limited,
4. Macro Entertainment Private Limited
5. G K S Finvest Private Limited
6. Calcutta Fan (1995) Private Limited
7. G S Global Projects Private Limited

 Applicants

Date of pronouncing the order : 20/4/17

Parties on Record :

Mrs. Noelle Banerjee, Advocate

Mr. Amir Safique Molla, Advocate

..... for Petitioners

ORDER

Per Sri Vijai Pratap Singh, Member (J)

This is an application for sanctioning the scheme and on hearing of the Advocates for the petitioners it appears that meetings of the shareholders has been dispensed in view of the written consent given by all the shareholders of the applicants and in terms of the order of the Hon'ble High Court at Calcutta the petition was filed and copy was served upon the Central Government and publication were made in two newspapers, "The Financial Express" on 22/10/2016 and the "Bartaman" on 24/10/2016 pursuant to the directions of the Hon'ble High Court at Calcutta dated 28/09/2017 .

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The Central Government has already filed their Affidavit affirmed on 23/11/2016 and does not have any objection for the sanctioning of the proposed scheme of amalgamation but annexed a letter No. ITO, WD – 12(3)/Kol/Amalgamation/15-16/71216 dated 26/10/2016, which they received from the Office of the Income Tax Officer, Ward 12(3), Kolkata, as **annexure 'A'** to the affidavit.

In this case Income Tax Department has stated that M/s. G. S. Global Projects Pvt. Ltd., the transferee company has a pending income tax demand of Rs. 1,07,952/- for the A.Y. 2014-15. However, it is seen from the report that there has been no turnover or returned income for the year 2015-16 and during that financial year an amount of Rs.1,49,276/- has been shown as the "Loss Brought forward". Hence, the demand as referred to above for the A.Y. 2014-15 is not clearly brought out. Also they have stated that the Scheme of Amalgamation is not in public interest, leading to tax evasion. How public interest in this case

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will be affected requires to be brought out in detail. The Regional Director, Eastern Region, representing the Central Government, may obtain necessary clarification regarding the report received from the Income Tax Department, submitted along with their affidavit dated 23/11/2016.

List the matter on 23/05/2017

sd/-
(S. Vijayaraghavan)
Member (T)

sd/-
(Vijai Pratap Singh)
Member (J)

Signed on this, the 27th day of April 2017.