


NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH  
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 08/03/2017 AT 2.30 PM

PRESENT: SHRI K. ANANTHA PADMANABHA SWAMY, MEMBER-JUDICIAL  
SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL

APPLICATION NUMBER : TP(HC)/CAA/73/2017  
TRANSFEROR COMPANY : HINDUJA FOUNDRIES LIMITED  
TRANSFeree COMPANY : ASHOK LEYLAND LIMITED  
UNDER SECTION : 230

Sl.No.	Name (in Capital)	Represented by	Signature
①	Mr. P. H. Arvindh Pandian (Senior advocate) for : Ms. Hanishankar Mami * Pawan Jhabhaleh	Counsel for Transferor and Transferee Companies	

**ORDER**

The Counsel for petitioner present and made submissions in relation to the CP No.73 of 2017 which has been filed before the Hon'ble High Court of Madras and stood transferred to NCLT. The petition has been filed under Sections 391 to 394 of the Companies Act, 1956 for the purpose of approval of the scheme of amalgamation of Hinduja Foundaries Ltd with Ashok Leyland Ltd. The petition was filed before the Hon'ble High Court of Madras wherein the said Court has passed a detailed order with regard to convening of the meeting of the equity shareholders of the company. However, the meeting of the unsecured creditors of the company was dispensed with. There are five secured creditors. Four have already filed affidavits giving consent for the scheme of amalgamation. Now, the remaining one secured creditor has also given his consent by way of No objection certificate available at Para 234A and 234B of the petition. Since the process of holding the meeting of the equity shareholders is completed and dispensing with the meeting of the secured creditors is already done. The order passed by the High Court of Madras is placed on record.

2. We have heard the counsel in detail. Prima facie, the case is made out for admission and issuance of notice to the concerned. Therefore, we direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs and Registrar of Companies, Chennai. There is no involvement of foreign exchange, so no need for serving notice on RBI. Notices are directed to be issued to NSE, BSE and SEBI. However, in relation to the Competition Commission of India, the counsel for petitioner has submitted that he has already obtained approval for which he seeks time to file the order of approval. Therefore, there may not be any need to issue fresh notice to CCI. This Tribunal is not having any facility of Official Liquidator being attached for carrying out the functions. Since this matter has been transferred from the High Court of Madras, the Ministry of Corporate Affairs has already appointed an Official Liquidator. Therefore, we direct the OL to submit the report pertaining to the affairs of the Applicant company. The OL is at liberty to appoint a qualified Chartered Accountant as per his own wisdom for preparation of the report. The OL shall submit the report to this Bench with three weeks from the date of receipt of the order of this Tribunal. The petitioner is also directed to serve private notice on the authorities as stated, and file the proof of sending and effecting notices thereon along with an affidavit. The petitioner company is directed to effect newspaper publication, one in English daily "Business Standard" [all India circulation] and another in Tamil daily "Dina Malar" [Tamilnadu edition] which are said to have wider circulation. The notice shall be published as per the Companies (Court) Rules 1959. The Registry is directed to exhibit the notice on the notice board of the NCLT, Chennai and the company is also directed to display the notice on its notice board at the registered office and to upload the same on the company's website. The company shall make available the list of secured creditors at accessible venue for the purpose of inspection. The stake holders are directed to file objection/make representation with<sup>in</sup> a period of 30 days from the date of receipt of the notice, failing which it shall be presumed that they/any one of them has/have no objection to the scheme of amalgamation. The matter is fixed for further hearing on 17.4.2017.

  
CH.MOHD SHARIEF TARIQ  
MEMBER (JUDICIAL)

  
ANANTHA PADMANABHA SWAMY  
MEMBER (JUDICIAL)

## ORDER

The Counsel for petitioner present and made submissions in relation to TP (HC)/CAA/73/2017/NCLT which has been filed before the Hon'ble High Court of Madras and stood transferred to NCLT. The petition has been filed under Sections 391 to 394 of the Companies Act, 1956 for the purpose of approval of the scheme of amalgamation of Hinduja Foundaries Ltd with Ashok Leyland Ltd. The petition was filed before the Hon'ble High Court of Madras wherein the High Court has passed a detailed order with regard to convening of the meeting of the equity shareholders of the company. However, the meeting of the unsecured creditors of the company was dispensed with. There are five secured creditors. Of them, four have already filed affidavit giving consent/no objection before the High Court, giving their consent for the scheme of amalgamation. Now, the remaining one secured creditor has also given his consent by way of No objection certificate available at Para 234A and 234B. Since the process of holding the meeting of the equity shareholders and dispensing with the meeting of the secured creditors by filing the affidavit by remaining secured creditor, now 100% secured creditors have given their consent for the scheme of amalgamation. The order passed by the High Court of Madras is placed on record.

We have heard the counsel in detail. Prima facie, the case is made out for admission and issuance of notice to the concerned. Therefore, we direct the Registry to issue notice to the Central Government represented by Regional Director, Registrar of Companies. As there is no involvement of foreign exchange, there is no need for serving notice on RBI. Notices are also to be issued to NSE, BSE and SEBI.

The petitioner is directed to serve private notice on the authorities as stated, and file the proof of sending and effecting notices thereon along with an affidavit. The petitioner company is directed to effect newspaper publication, one in English daily "Business Standard" [all India circulation] and another in Tamil daily "Dina Malar" [Tamilnadu edition] which are said to have wider circulation. The notice shall be published as per the Companies Court Rules 1959. The Registry is directed to exhibit the notice on the notice board of the NCLT, Chennai and the company is directed to display the notice on its notice board at the registered office and also to upload on the company website. The company is also directed to make available the list of secured creditors at accessible venue for the purpose of inspection. The stake holders are directed to file objection/make representation with a period of 30 days from the date of receipt of the notice, failing which it shall be presumed that they/any one of them have/has no objection to the scheme of amalgamation. The matter is fixed for further hearing on 17.4.2017

  
**(Ch. Md. Sharief Tariq)**  
**Member (Judicial)**

  
**(K. Anantha Padmanabha Swamy)**  
**Member (Judicial)**