

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

(13)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 05/10/2017 AT 10.30 AM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER - JUDICIAL
SHRI. S. VIJAYARAGHAVAN - MEMBER - TECHNICAL

APPLICATION NUMBER : TCA(HC)/141-144/CAA /2017

PETITION NUMBER :

NAME OF THE TRANSFEROR : KAMADGIRI INDUSTRIES LTD
NAME OF THE TRANSFEROR : RAMVILAS INDUSTRIES LTD
NAME OF THE TRANSFEROR : VEERAA SPINNING MILLS PVT LTD

NAME OF THE TRANSFERRE : SRINIDHI INDUSTRIES LTD

UNDER SECTION : 391/394

S.No. Name (in Capital) Represented by Signature

1. R. Sankarnarayanan
for N.P. VIJAY KUMAR
R. PRADEEP

Counsel for Applicant

4/10/17

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCA (HC)/141/CAA/2017
TCA (HC)/142/CAA/2017
TCA (HC)/143/CAA/2017
and
TCA (HC)/144/CAA/2017

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation

M/s Kamadgiri Industries Limited

(1st Transferor Company)

And

M/s. Ramvilas Industries Limited

(2nd Transferor Company)

And

M/s. Veeraa Spinning Mills Private Limited

(3rd Transferor Company)

With

M/s. Srinidhi Industries Limited

(Transferee Company)

Order delivered on 5th of October, 2017

CORAM

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant(s) : Mr. R. Sankarnarayanan, Counsel

ORDER

Per : CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration are four Applications i.e. TCA(HC)/141/CAA/2017, ~~TCA(HC)/142/CAA/2017~~, TCA (HC)/143/CAA/2017 and TCA (HC)/144/CAA/2017, filed under Sections 230 to 232 of the Companies Act, 2013. Since all the four Applications are with regard to the single Scheme of Amalgamation, we take them together to pass a common order.

TCA(HC)/141/CAA/2017

2. The prayer made in the application of the 1st Transferor company (M/s. Kamadgiri Industries Limited) is for direction to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of Amalgamation. There are 14 shareholders in the applicant company. We direct for convening, holding and conducting of the meeting of the equity shareholders. The meeting shall be held on 18.11.2017 at 11.30 a.m. at Race Course Mansion, Second Floor, 8/1M, Race Course, (above Kongu Masala Restaurant), Near Thomas park Bus Stop, Coimbatore – 641 018.

(i) We appoint Mr. V. V. Venkateshwaran, Chartered Accountant, as the Chairman of the meeting. The quorum shall be 7 equity shareholders present in person or by proxy. In case there is no quorum at the designated time of the meeting, then the meeting shall be adjourned by half an hour, and thereafter, the persons present for voting shall be deemed to constitute the quorum. The voting by the proxy shall be permitted provided a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the company at its registered office not later than 48 hours before the meeting. Notice for the meeting shall be sent by the Chairman of the meeting by registered post or speed post or courier or e-mail or hand delivery as per the last known addresses of the equity shareholders at least one month before the date fixed for the meeting. The person who receives the notice within one month from the date of receipt of notice can vote in the meeting either in person or through proxy or the mode

mentioned in the notice of the meeting to the adoption of the scheme of amalgamation.

(ii) The Chairman is directed to ensure the availability of all the necessary facilities for the purpose of voting in the meeting so that the proceedings of the meeting may take place in a just, free and fair manner. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him. The Chairman shall file the report of the meeting to this Bench within one week from the date of the meeting.

(iii) In relation to 1st Transferor company, it has been submitted that there is no secured creditor and the certificate issued by the independent Chartered Accountant to that effect is placed at page 191 of the typed set filed with the Application.

(iv) The 1st Transferor Company has two unsecured creditors whose consent by way of affidavit has been obtained and are placed at pages 194 to 197 of the typeset filed with the Application. Therefore, we order to dispense with the meeting of the unsecured creditors, under Sub-section 9 of Section 230 of the Companies Act- 2013.

TCA (HC)/142/CAA/2017

3. The prayer made in the application of the 2nd Transferor company (M/s. Ramvilas Industries Limited) is for direction to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of Amalgamation. There are 12 shareholders in the applicant company. We direct for convening, holding and conducting of the meeting of the equity shareholders. The meeting shall be held on 16.11.2017 at 3.30 p.m. at Sri Saraswathi Kalai Koodam, No.30, Amman Kovil Street, Oreleanpet, Pondicherry- 605 005.

(i) We appoint Mr. V. V. Venkateshwaran, Chartered Accountant, as the Chairman of the meeting. The quorum shall be 6 equity shareholders present in person or by proxy. In case there is no quorum at the designated time of the meeting, then the meeting shall be adjourned by half an hour, and thereafter, the persons present for voting shall be deemed to constitute the quorum. The voting by the proxy shall be permitted provided a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the company at its registered office not later than 48 hours before the meeting. Notice for the meeting shall be sent by the Chairman of the meeting by registered post or speed post or courier or e-mail or hand delivery as per the last known addresses of the equity shareholders at least one month before the date fixed for the meeting. The person who receives the notice within one month from the date of receipt of notice can vote in the meeting either in person or through proxy or the mode

mentioned in the notice of the meeting to the adoption of the scheme of amalgamation.

(ii) The Chairman is directed to ensure the availability of all the necessary facilities for the purpose of voting in the meeting so that the proceedings of the meeting may take place in a just, free and fair manner. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him. The Chairman shall file the report of the meeting to this Bench within one week from the date of the meeting.

(iii) In relation to 2nd Transferor company, it has been submitted that there is no secured creditor and the certificate issued by the independent Chartered Accountant to that effect is placed at page 139 of the typed set filed with the Application.

(iv) The 2nd Transferor Company has three unsecured creditors whose consent affidavits are placed at pages 142 to 147 of the types set filed with the Application. Therefore, we order to dispense with the meeting of the unsecured creditors, under Sub-section 9 of Section 230 of the Companies Act- 2013.

TCA (HC)/143/CAA/2017

4. The prayer made in the application of the 3rd Transferor company (M/s. Veeraa Spinning Mills Private Limited) is for direction to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of Amalgamation. There are 7 shareholders in the applicant company. We direct for convening, holding and conducting of the meeting of the equity shareholders. The meeting shall be held on 17.11.2017 at 3.30 p.m. at 108, Mosikeerananar Street, First Floor, Erode – 638 003.

(i) We appoint Mr. V. V. Venkateshwaran, Chartered Accountant, as the Chairman of the meeting. The quorum shall be 3 equity shareholders present in person or by proxy. In case there is no quorum at the designated time of the meeting, then the meeting shall be adjourned by half an hour, and thereafter, the persons present for voting shall be deemed to constitute the quorum. The voting by the proxy shall be permitted provided a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the company at its registered office not later than 48 hours before the meeting. Notice for the meeting shall be sent by the Chairman of the meeting by registered post or speed post or courier or e-mail or hand delivery at the last known addresses of the equity shareholders at least one month before the date fixed for the meeting. The person who receives the notice within one month from the date of receipt of notice can vote in the meeting either in person or through proxy or the mode mentioned in the notice of

the meeting to the adoption of the scheme of amalgamation.

(ii) The Chairman is directed to ensure the availability of all the necessary facilities for the purpose of voting in the meeting so that the proceedings of the meeting may take place in a just, free and fair manner. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him. The Chairman shall file the report of the meeting to this Bench within one week from the date of the meeting.

(iii) In relation to 3rd Transferor company, it has been submitted that there is no secured creditor and the certificate issued by the independent Chartered Accountant to that effect is placed at page 186 of the typed set filed with the Application.

(iv) The 3rd Transferor Company has 29 unsecured creditors out of which two unsecured creditors have given

consent by way of affidavits. They constitute 98.29% value of the total credit. The Affidavits of unsecured creditors are placed at pages 189 to 192 of the typeset filed with the Application. Therefore, we order to dispense with the meeting of the unsecured creditors, under Sub-section 9 of Section 230 of the Companies Act- 2013.

TCA (HC)/144/CAA/2017

5. The prayer made in the application of the Transferee company (M/s. Srinidhi Industries Limited) is for direction to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of Amalgamation. There are 105 shareholders in the applicant company. We direct for convening, holding and conducting of the meeting of the equity shareholders. The meeting shall be held on 17.11.2017 at 12.30 a.m. at 108, Mosikeerananar Street, First Floor, Erode – 638 003.

(i) We appoint Mr. V. V. Venkateshwaran, Chartered Accountant, as the Chairman of the meeting. The quorum shall be 50 equity shareholders present in person or by proxy. In case there is no quorum at the designated time of the meeting, then the meeting shall be adjourned by half an hour, and thereafter, the persons present for voting shall be deemed to constitute the quorum. The voting by the proxy shall be permitted provided a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the company at its registered office not later than 48 hours before the meeting. Notice for the meeting shall be sent by the Chairman of the meeting by registered post or speed post or courier or e-mail or hand delivery as per the last known addresses of the equity shareholders at least one month before the date fixed for the meeting. The person who receives the notice within one month from the date of receipt of notice can vote in the meeting either in person or through proxy or the mode

mentioned in the notice of the meeting to the adoption of the scheme of amalgamation.

(ii) The Chairman is directed to ensure the availability of all the necessary facilities for the purpose of voting in the meeting so that the proceedings of the meeting may take place in a just, free and fair manner. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him. The Chairman shall file the report of the meeting to this Bench within one week from the date of the meeting.

(iii) In relation to the Transferee company, it has been submitted that there is one secured creditor, whose consent has been obtained in the form of certificate, which is placed at pages 184 and 185 of the typed set filed with the Application. Therefore, we order to dispense with the meeting of the secured creditor, under Sub-section 9 of Section 230 of the Companies Act- 2013 subject to filing of the consent Affidavit of

the sole secured creditor at the time of filing of the Petition.

(iv) The Transferee company has 51 unsecured creditors. We order for convening, holding and conducting of the meeting of unsecured creditors on 17.11.2017 at 11.00 a.m. in the premises at 108, Mosikeerananar Street, First Floor, Erode- 638 003.

We appoint Mr. V.V. Venkateshwaran, Chartered Accountant, as Chairman for the meeting of the unsecured creditors. The quorum for the meeting will be at least 6 members constituting 25% or more of the total value of unsecured credit.

The notice of the meeting of unsecured creditors shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the creditors available with the Transferee company.

The Transferee Company is also directed to make available the facility for voting by making appropriate

arrangements. The information about such arrangements shall be given to unsecured creditors well before the date fixed for the meeting. Those who received the notices may vote in the meeting either in person or through proxy for the adoption of the scheme. The Chairman shall ensure that the proceedings of the meeting may take place in a just, free and fair manner. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him. The Chairman shall file the report of the meeting to this Bench within one week from the date of the meeting.


6. We direct the Registry to issue notice to the Official Liquidator in respect of the 1st Transferor company, 2nd Transferor company and the 3rd Transferor company. The Official Liquidator shall appoint Chartered Accountants on his own for the purpose of preparation of the reports which shall be

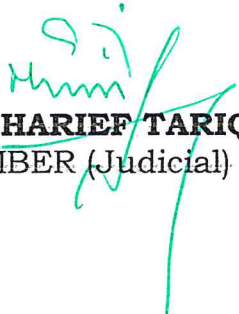
submitted to this Bench within four weeks from the date the copy of this order is received.

7. We direct the Registry to issue notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned and Income Tax Authority in all the four Applications. Since the Applicants are private limited companies, there is no requirement to issue notices to the SEBI and other stock exchanges. The Counsel for the Applicants submitted that there is no requirement to issue notice to CCI or other sectoral regulators. In this connection, the Counsel for the Applicants is directed to file a memo at the time of filing of Petition that the Scheme is not falling within the purview of Section 5 of the Competition Act, 2002. In case any authority is desirous of making any objection/representation, they may do so within 30 days from the date of receipt of the notice. In case no objection/representation is made, it shall be presumed that they/any of them have/has no objection/representation to make.

8. The Applicants are directed to effect publication separately in the newspapers one in English "The New Indian Express" (Coimbatore Edition) and another in vernacular language "Dinamani" (Coimbatore Edition) having wide circulation in the State of Tamilnadu, in respect of 1st Transferor Company, 3rd Transferor Company and Transferee Company. The 2nd Transferor Company, is directed to effect newspaper publication in the above mentioned newspapers but in Pondicherry Edition, not less than 30 days before filing the Company Petition. The Applicant Companies are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of its company. The Registry is also directed to display the notice on the notice board of this Bench. The Applicant Companies are also directed to issue private notice separately to the said authorities/regulators by way of speed post/hand delivery and file the proof of sending and effecting the service upon them along with the newspaper publication.

9. Accordingly, the Applications are allowed. We direct the Applicant Companies to present the Petition on or before 18.12.2017 to this Bench.


S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)