

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 04.04.2017

Orders passed on 04.04.2017

TCA (HC)/11/CAA/2017

and

TCA (HC)/12/CAA/2017

with

TCA (HC)/13/CAA/2017

(Under Sections 391 to 394 of the Companies Act, 1956 and the corresponding
Sections 230 to 232 of the Companies Act, 2013)

And

In the matter of Scheme of Amalgamation

Of

M/s.Murugappa Holdings Limited (Transferor-1)

And

M/s.Presmet Private Limited (Transferor-2)

With

M/s.Ambadi Investments Private Limited (Transferee)

And

Their Respective Shareholders and creditors.

Representative : Counsel for the Applicant Shri Harishankar Mani

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ANANTHA PADMANABHA SWAMY & CH MOHD SHARIEF TARIQ,
MEMBERS (JUDICIAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under consideration are three applications unnumbered which were filed before the Hon'ble High Court of Madras and transferred

to this Bench and renumbered as TCA(HC)/11CAA/2017, TCA(HC)/12CAA/2017 and TCA(HC)/13CAA/2017 respectively, pertaining to the proposal of the scheme of arrangement of amalgamation. The first transferor company is M/s. Murugappa Holdings Limited, the second transferor company is M/s. Presmet Private Limited and the Transferee company is M/s. Ambadi Investments Private Limited. The registered office of 1st Transferor company and Transferee company is situated at 'Parry House', Fifth Floor, No.43, Moore Street, Chennai-600108 and the 2nd Transferor company is housed at 'Dare House', No.234, NSC Bose Road, Chennai-600001. The prayer made in all the three applications pertaining to one scheme of arrangement of amalgamation. Therefore, we take all the three applications together for disposal.

TCA(HC)/11/CAA/2017

2. The prayer made in the application of the 1st Transferor company (M/s.Murugappa Holdings Ltd.) is for allowing to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of arrangement of amalgamation. There are 1241 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 15.05.2017 at 10.15 a.m at Dare House, No.234, NSC Bose Road, Chennai-600001.

3. We appoint Mr. A.Vellayan, failing him, Mr. M. M. Murugappan, failing him, Mr.P.Nagarajan as the Chairman of the meeting. The quorum shall be 100 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.

4. The publication of notice shall be made in the newspapers one in English “Business Standard” (All India edition) and another in vernacular language “Dinamalar” (Tamilnadu edition) having wider circulation in the State of Tamilnadu, not less than 30 days before the date fixed for the meeting. The Applicant company is directed to display the notice on the notice board at its registered office and the Registry is also directed to display the notice on the board of this Tribunal. 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 through postal ballot or through electronic means or the mode mentioned in the notice of the meeting to the adoption of the scheme of arrangement of amalgamation.

5. 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 and to the extent possible in conformity with the Secretarial standard on general meetings issued under Section 118 (10) of the Companies Act, 2013.

6. The Chairman shall appoint one Scrutiniser for scrutiny of the votes cast by equity shareholders, who shall submit the report to the Chairman. The Chairman shall file the report before this Bench within one week from the date the meeting is conducted. 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.

7. We are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC, Income Tax Authorities, Reserve Bank of India, SEBI, BSE, NSE and CCI. The authorities shall within the period of 30 days from the date of the receipt of the notice, make representation to this Bench. The copy of such representation shall simultaneously be sent to the applicant company and in case no representation is received within the stipulated period of 30 days by this Bench, it shall be presumed that the authorities have no representation to make on the proposed schemed of arrangement of amalgamation.

8. In relation to 1st Transferor company, it has been submitted that there is no secured creditors and there is only unsecured creditor. The counsel for applicant company undertakes to obtain the consent affidavit from the unsecured creditor before filing of the Company Petition.

9. We also direct the Registry to issue notice to the Official Liquidator in respect of 1st Transferor Company. The Official Liquidator shall appoint Chartered Accountant on his own for the purpose of preparation of the report which shall be submitted to this Bench within four weeks from the date the copy of this order is received. We direct the applicant company to present the Petition within one week from the date the report of the Chairman is submitted to this Bench.

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10. M/s.Presmet Private Limited is the second Transferor applicant company, which has only two equity shareholders. The shareholders have given the consent affidavits which are placed at Pages 52 to 55 wherein it has been deposed that they have perused the proposed scheme of arrangement of amalgamation and give consent for the scheme and also for dispensing with the convening, holding and conducting of the meeting of the equity shareholders. Therefore, the requirement under law is fulfilled. We are inclined to order to dispense with the convening, holding and conducting of the meeting of the equity shareholders of the applicant company.

11. In relation to the applicant company it has been submitted that there is no secured creditors and there are unsecured creditors. Counsel for the applicant company undertakes to obtain the concerned affidavit from the unsecured creditors before filing of the Company Petition.

12. In the light of the Scheme of Arrangement of Amalgamation, we are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC, Income Tax Authorities, Reserve Bank of India, SEBI, BSE, NSE and CCI. The authorities shall within the period of 30 days from the date of the receipt of the notice, make representation to this Bench. The copy of such representation shall simultaneously be sent to the applicant company and in case no representation is received within the stipulated period of 30 days by this Bench, it shall be presumed that the authorities have no representation to make on the proposed scheme of arrangement of amalgamation.

13. We also direct the Registry to issue notice to the Official Liquidator in respect of 2nd Transferor Company. The Official Liquidator shall appoint Chartered Accountant on his own for the purpose of preparation of the report which shall be submitted to this Bench within four weeks from the date the copy of this order is received.

14. We direct the applicant company to present the Petition along with 1st transferor company and transferee company.

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15 The prayer made in the application of the transferee company (M/s. Ambadi Investments Private Limited) is for allowing to convene, hold and conduct the meeting of the equity shareholders for passing the resolution to approve the Scheme of arrangement of amalgamation. There are 45 shareholders in the applicant transferee

company. We direct for convening, holding and conducting of the meeting of the equity shareholders. The meeting shall be held on 15.05.2017 at 3.30 p.m. at No. 3/2, Sriram Nagar, North Street, Alwarpet, Chennai-600 018.

16. We appoint Mr. M.A. Alagappan, failing him, Mr. A. Vellayan, failing him, Mr. M. M. Murugappan as the Chairman of the meeting. The quorum shall be 15 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.

17. The publication of notice shall be made in the newspapers one in English "Business Standard" (All India edition) and another in vernacular language "Dinamalar" (Tamilnadu edition) having wider circulation in the State of Tamilnadu, not less than 30 days before the date fixed for the meeting. The transferee company is directed to display the notice on the notice board at its registered office and the Registry is also directed to display the notice on the board of this Tribunal. 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 through postal ballot or through electronic means or the mode mentioned in the notice of the meeting to the adoption of the scheme of arrangement of amalgamation.

18. 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 and to the extent possible in conformity with the Secretarial standard on general meetings issued under Section 118 (10) of the Companies Act, 2013.

19. The Chairman shall appoint one Scrutiniser for scrutiny of the votes cast by equity shareholders, who shall submit the report to the Chairman. The Chairman shall file the report before this Bench within one week from the date the meeting is conducted. 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.

20. We are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC, Income Tax Authorities, Reserve Bank of India, SEBI, BSE, NSE and CCI. The authorities shall within the period of 30 days from the date of the receipt of the notice, make representation to this Bench. The copy of such representation shall simultaneously be sent to the applicant company and in case no representation is received within the stipulated period of 30 days by this Bench, it shall be presumed that the authorities have no representation to make on the proposed scheme of arrangement of amalgamation.

21. In relation to the transferee company, it has been submitted that there is no secured creditors and there is only unsecured creditor. The counsel for applicant transferee company undertakes to obtain the consent affidavit from the unsecured creditor before filing of the Company Petition.

22. We direct the transferee company to present the Petition within one week from the date the report of the Chairman is submitted to this Bench.


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)