

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 15.03.2017
Orders passed on 15.03.2017

TP (HC)/CAA/6 & 7/2017

Under Sections 230 of the Companies Act, 2013

And

In the matter of Scheme of Arrangement of Amalgamation

Of

M/s.NSL Power Equipment Trading Private Ltd. (Transferor)

With

M/s.Regan Powertech Private Ltd (Transferee)

And

Their Respective Shareholders and creditors.

Representative : Counsel for the Applicant Shri S.Aravindan

CORUM

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

ORDER

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

1. At the outset, we would like to mention that the Ministry of Corporate Affairs vide S.O.3676(E) dated 7.12.2016 has clarified under order called, the Companies (Removal of Difficulties) Fourth Order, 2016 which has been brought into force w.e.f.15.12.2016 that all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise

such proceedings or proceedings relating to winding up of companies which have not been transferred from the High Courts shall be dealt with in accordance with the provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959. The application under consideration has been filed before the High Court of Madras u/s 391 to 394 of the Companies Act, 1956 for seeking an order for dispensing with the meeting of the equity shareholders and the creditors, that has been transferred to NCLT, Chennai.

2. The applicant company Viz. Regen Powertech Private Limited prays for dispensing with the meeting of its equity shareholders. Equity shareholders and Compulsorily Convertible Preference Shareholders are **six** in number who have given their consent confirming the Scheme of Arrangement of Amalgamation. Their affidavits are at Page Nos. 331 to 352 wherein the Equity shareholders and Compulsorily Convertible Preference Shareholders have confirmed the scheme of Arrangement of Amalgamation. Therefore, we order for dispensing with the meeting of the Equity shareholders and Compulsorily Convertible Preference Shareholders.

3. It has been submitted that there have been 10 secured creditors, Out of 10, two are repeated viz. Axis Bank and Standard Chartered Bank. In actual, there have been 8 secured creditors. The IDFC, vide letter dated 7th July 2015 has given 'No dues certificate' in respect of

Investment Agreement dated 7th September 2011 which has been amended subsequently on 17th December 2014 for Rs.100 crores subscribed by IDFC. Out of the remaining 8 creditors, Indostar Capital Finance Private Ltd. vide letter dated 1st November 2016 has stated that they have no exposure and they do not stand as creditor either secured or unsecured to Applicant company viz. M/s.Regan Powertech Private Limited. The counsel for applicant has referred to the certificate that has been issued on 30.11.2016 by ABCV & Associates, Chartered Accountants wherein it has been shown that Indo Star Capital Finance Private Ltd has given loan amounting to Rs.435 crores. However, in last column which pertains to the amount outstanding as on 31.10.2016 there is Nil against Indo Star Capital Finance Private Ltd. Now 7 secured creditors are left whose consent letters are placed at Pages 353 to 379 in their letterheads. Since the matter is being dealt with under Sections 391 to 394 of the Companies Act, 1956 r/w Companies (court) Rules, 1959 wherein no specific form for consent of the creditors is prescribed. Therefore, we consider the consent given by secured creditors on letterheads by which they confirm the Scheme of Arrangement of Amalgamation. And all of them did agree for dispensing with the meeting of the creditors. We are satisfied that there is no requirement of ordering the meeting of the secured creditors in relation to the Applicant company viz. M/s.Regan Powertech Private Limited. Therefore, we dispense with the meeting of the secured

creditors. There is no prayer for dispensing with the meeting of the unsecured creditors. Accordingly, the application is disposed of.

4. In view of the above, the applicant company is directed to present the Company Petition after fulfilment of the requirement of law on or before 24.03.2017.


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)