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NATIONAL COMPANY LAW TRIBUNAL
DIVISIONAL BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 18/04/2017 AT 10.30 AM

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

APPLICATION NUMBER :
PETITION NUMBER : CA/CAA/27,28/2017
NAME OF THE TRANSFEROR : SARA ELGI ARTERIORS LIMITED
ELGI BUILDING PRODUCTS LIMITED
NAME OF THE TRANSFERRE :
UNDER SECTION : 230

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

Mr. Ramakrishnan Viraraghavan
Senior Counsel
for M/s. G. Siva Shankaran &
S. Sathyaganesh

Counsel for Applicants

G.S.
G. Siva Shankaran

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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 18.04.2017
Orders passed on 18.04.2017

CA /27/CAA/2017
and
CA /28/CAA/2017

(Under Sections 230 to 232 of the Companies Act, 2013)
and
In the matter of Scheme of Amalgamation
of

M/s. Sara Elgi Arteriors Ltd (Transferor-1)
and
M/s. Elgi Building Products Ltd (Transferor-2)
with
M/s. Super Spinning Mills Ltd. (Transferee)
and
Their Respective Shareholders and creditors.

Applicant companies represented by: Sr. Counsel Mr. Ramakrishnan
Viraraghavan / Advocate Shri G. Sivashankaran

CORUM

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

ORDER

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

1. Under consideration are two applications CA/27/CAA/2017 and CA/28/CAA/2017 pertaining to the proposed Scheme of Amalgamation. The 1st transferor company is M/s. Sara Elgi Arteriors Ltd., the 2nd transferor company is M/s. Elgi Building Products Ltd., and the transferee company is M/s. Super Spinning Mills Ltd. The registered office of the 1st transferor company and

the 2nd transferor company is situated at 'Elgi Towers', 737D, Pappanaickenpalayam, Puliakulam Road, Coimbatore – 641 045, Tamilnadu and the transferee company is situated at 'Elgi Towers', P.B. No: 7113, Green Fields, Puliakulam Road, Coimbatore – 641 045. The prayer made in both the applications pertains to single Scheme of Amalgamation. Therefore, we take both the applications together for disposal.

CA/27/CAA/2017

2. The prayer made in the application of the 1st transferor company (M/s. Sara Elgi Arteriors Ltd) is for allowing to dispense with convening and holding of the meeting of the equity shareholders and secured and unsecured creditors and for fixing a date for filing the Company Petition to sanction the Scheme of Amalgamation. There are 7 equity shareholders in the applicant company. The consent affidavits of the equity shareholders are placed at pages 332 to 353 of the application. In the consent affidavits, it has been deposed that the equity shareholders have no objection to dispense with convening and holding of their meeting for the purpose of sanction of the Scheme of Amalgamation between the companies. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with the meeting of the equity shareholders of the 1st transferor company.

3. In relation to the secured and unsecured creditors of the 1st transferor company, it has been stated that there is no secured creditor and there is only unsecured creditor, who is none other than the 2nd transferor company (M/s. Elgi Building Products Ltd.),

that has given consent affidavit which is placed at pages 327 to 329 of the application, wherein it has been deposed that it has no objection to dispense with the meeting of the creditors, and agrees and confirms to the Scheme of Amalgamation between the companies.

4. 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, CCI and other stock exchanges. The authorities shall within the period of 30 days from the date of the receipt of the notices, may 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 objection/representation to make on the proposed Schemed of Amalgamation.

5. We direct the 1st transferor company to make newspaper publication one in English (All India Edition) and another in vernacular language (Tamilnadu Edition) having wider circulation in the State of Tamilnadu, having not less than 30 days period before the Petition is presented. The petitioner company is also directed to cause private notice to the authorities concerned and file the proof of sending and effecting the notices and the newspaper publication along with affidavit before filing of the Petition. The petitioner company is also directed to display the notices on the notice board at its registered office besides uploading of the same in

its website. The Registry is directed to display the notice on the board of this Tribunal.

6. 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.

CA /28/CAA/2017

7. The prayer made in the application of the 2nd transferor company (M/s. Elgi Building Products Ltd.) is to dispense with convening and holding of the meeting of the equity shareholders and preference shareholder and for fixing a date for filing the Company Petition to approve the Scheme of Amalgamation. There are 7 equity shareholders in the applicant company. All the shareholders have given their consent affidavits, whom 5 are individuals and two are entities i.e. 1st transferor company and the transferee company, for dispensing with convening and holding of their meeting and for the sanction of the Scheme of Amalgamation,. The consent affidavits are placed at pages 355 to 376 of the application. There is only preference shareholder in the 2nd transferor company which is none other than the transferee company (M/s. Super Spinning Mills Ltd.). The consent affidavit of preference shareholder is placed at pages 378 to 381 of the application. All the equity shareholders/preference shareholder have deposed in their consent affidavits that they have no objection

to dispense with the convening and holding of their meeting and approved the proposed Scheme of Amalgamation between the companies. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with the meeting of the equity and preference shareholders of the 2nd transferor company.

8. In relation to the secured and unsecured creditors, it has been stated that there is no secured/unsecured creditor in respect of the 2nd transferor company. The certificate issued by the Chartered Accounts is placed at page 330 of the application.

9. 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, CCI and other stock exchange. The authorities shall within the period of 30 days from the date of the receipt of the notices, may 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 objection/representation to make on the proposed Schemed of Amalgamation.

10. We direct the 2nd transferor company to make newspaper publication one in English (All India Edition) and another in vernacular language (Tamilnadu edition) having wider circulation in the State of Tamilnadu, having not less than 30 days period before the Petition is presented. The petitioner company is also directed to cause private notices to the authorities concerned and

file the proof of sending and effecting the notices and the newspaper publication along with affidavit before filing the Petition. The petitioner company is also directed to display the notices on the notice board at its registered office besides uploading of the same in its website. The Registry is directed to display the notice on the board of this Tribunal.

11. 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.

12. The applicant companies are directed to present the Petition for approval/sanction of the Scheme of Amalgamation before this Bench on or before 30.07.2017. Accordingly, the applications are disposed of.


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)