(2019) 07 NCLT CK 0009

In the National Company Law Tribunal

Case No : Company Application No. 681/CAA Of 2019

Aindro Pharmaceuticals Private Limited APPELLANT

Vs

Colors Condominium Private Limited RESPONDENT

Date of Decision : 23-07-2019

Acts Referred:
Companies Act, 2013 — Section 230, 230(9), 231, 232

Citation : (2019) 07 NCLT CK 0009

Hon'ble Judges : Ch. Mohd. Sharief Tariq, J

Bench : Single Bench

Advocate : B. Chandra

Final Decision : Allowed

Judgement

Ch. Mohd. Sharief Tariq, J

1. Under consideration is Joint Company Application No. CA/681/CAA/2019 filed under Sections 230 to 232 of the Companies Act, 2013. The prayer made is to dispense with convening, holding and conducting of the meeting of Equity Shareholders and Secured/Unsecured Creditors of the Transferor Company and Transferee Company.

2. M/s. Aindro Pharmaceuticals Private Limited

i. The Transferor Company viz., M/s. Aindro Pharmaceuticals Private Limited, has 2 (Two) Equity Shareholders. The list of Equity Shareholders is placed at page 59 of the typed set filed with the Application. The consent Affidavits given by the Equity Shareholders are placed at pages 110 to 113 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of Equity Shareholders. Therefore, the meeting of the Equity Shareholders of the Transferor Company is allowed to be dispensed with.

ii. There are no Secured and Unsecured Creditor of the Transferor Company. The

Certificate issued by the Chartered Accountants to this effect is placed at pages 109 of the typed set filed with the application.

3. M/s. Colors Condominium Private Limited

i. The Transferee Company viz., M/s. Colors Condominium Private Limited, has 2 (Two) Equity Shareholders. The list of Equity Shareholders is placed at page 8 of the typed set filed with the Application. The consent Affidavits given by the Equity Shareholders are placed at pages 114 to 117 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of Equity Shareholders. Therefore, the meeting of the Equity Shareholders of the Transferee Company is allowed to be dispensed with.

ii. There is no Secured Creditor of the Transferee Company. The Certificate issued by the Chartered Accountants to this effect is placed at pages 54 of the typed set filed with the application.

iii. There are 2 Unsecured Creditors (Directors) in relation to the Transferee Company. The list of the Unsecured Creditors is placed at page 53 of the typed set filed with the application. The consent affidavit given by the Unsecured Creditors constituting 100% in terms of values, are placed at pages 55 to 58 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with the holding of the meeting of Unsecured Creditors. Therefore, the meeting of the Unsecured Creditor(s) of the Transferor Company are allowed to be dispensed with under Clause (9) of Section 230 of the Companies Act, 2013.

4. The Registry is directed to issue notice to the concerned Regional Director, Ministry of Corporate Affairs, RoC concerned and Income Tax Authorities including the Assessing Officer of the I.T. Circle for both the Companies. The notice is also directed to be issued to the Official Liquidator in relation to the Transferor Company separately with the direction to appoint CA for filing the report with regard to the affairs of the Company. In case, the scheme is exempted under the Competition Act, 2002, an affidavit to this effect is to be given. Otherwise, notice to CCI may also be issued. In case, the statutory authorities to whom the notice is issued are 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.

5. The Applicant Companies are also directed to issue private notice having not less than 30+2 days before the date fixed for filing Petition(s) to the said authorities/regulators by way of speed post/hand delivery separately. The proof of sending and effecting the service of notice upon them along with the newspaper publication shall be submitted with the supporting affidavit to this Bench along with Company Petition(s).

6. The Applicant Companies are directed to effect publication separately in the newspapers one in English "Trinity Mirror" (Chennai Edition) and another in vernacular "Makkal Kural" (Chennai Edition) at least a month before the date fixed for filing the Petition(s), provided the said newspapers have wide circulation in the State of Tamil Nadu. The Applicant Companies are also directed to upload the notice on its website and display the notice on the notice board at its Registered Office. The Registry is also directed to display the notice on the notice board of this Bench.

7. Accordingly, the Application is allowed. The Transferor Company and Transferee Company are directed to file the Petition(s) on or before 03.09.2019.

