(2015) 11 DEL CK 0023

In the Delhi High Court

Case No : Company Application (Main) No. 164/2015

AOI International Private Limited APPELLANT

Vs

Grape City India Private Limited RESPONDENT

Date of Decision : 06-11-2015

Acts Referred:

Citation : (2015) 11 DEL CK 0023

Hon'ble Judges : Sudershan Kumar Misra, J.

Bench : Single Bench

Advocate : Ashish Middha, Advocate, for the Appellant

Final Decision : Allowed

Judgement

Sudershan Kumar Misra, J.—This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of AOI International Private Limited (hereinafter referred to as the transferor company) with GrapeCity India Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company was incorporated under the Companies Act, 1956 on 23rd November, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 27th November, 1996 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Bunka Orient India Private

Limited. The company changed its name to GrapeCity India Private Limited and obtained the fresh certificate of incorporation on 20th December, 2001.

5. The present authorized share capital of the transferor company is Rs. 3,00,00,000/- divided into 30,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid up capital of the company is Rs. 2,98,50,010/- divided into 29,85,001 equity shares of Rs. 10/- each.

6. The authorized share capital of the transferee company is Rs. 21,00,00,000/- divided into 21,00,000 equity shares of Rs. 100/- each. The issued, subscribed and paid up capital of the company is Rs. 20,46,24,000/- divided into 20,46,240 equity shares of Rs. 100/- each.

7. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, have also been filed.

8. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavits. It is submitted by the applicants that the proposed scheme will result in formation of a larger company enabling further growth and development of the businesses of the said company thus enabling the said company to obtain greater facilities possessed and enjoyed by one large company compared to a small company for raising capital, securing and conducting trade and business on favourable terms and other related benefits. It is claimed that the proposed amalgamation will result in reduction in overheads and other expenses, reduction in administrative and procedural work, eliminate duplication of work, better and more productive utilization of various resources and will enable the undertakings concerned to effect internal economies and optimize productivity.

9. So far as the share exchange ratio is concerned, the Scheme provides that upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the transferor company in the following ratio:-

"01 equity share of Rs. 100/- each of the transferee company, for every 10 equity shares of Rs. 10/- each held in the transferor company."

10. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 15th June, 2015 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

12. The transferor company has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company, as on 30th June, 2015.

13. The transferee company has 03 equity shareholders, 01 secured creditor and 03 unsecured creditors. All the equity shareholders, the sole secured creditor and 02 out of 03 unsecured creditors, being 66.67% in number and 91.67% in value, have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders, secured and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

14. The application stands allowed in the aforesaid terms.

