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(2010) 12 DEL CK 0354

In the Delhi High Court

Case No : Company Application (M) No. 228 of 2010

Bharat Projects Private Limited APPELLANT

Vs

DBH International Private Limited RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:
Companies Act, 1956 — Section 391

Citation : (2010) 12 DEL CK 0354

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Deepak Diwan and Adarika Banerjee, for the Respondent

Judgement

Sanjiv Khanna, J.—This joint application under Sections 391-394 of the Companies Act, 1956 (Act for short) has been filed by Bharat Projects Private Limited (Transferor Company for short) and DBH International Private Limited (Transferee Company) in respect of scheme of amalgamation appended as Annexure-A to this application.

2. The registered offices of the transferor and transferee companies are situated within the National Capital Territory of Delhi. Along with the application, copy of the Articles and Memorandum of Association and latest audited balance sheets of the transferee and transferor companies have been placed on record. Resolutions passed by the Board of Directors of the transferor and transferee companies approving the proposed scheme have also been placed on record. In the application details with regard to the date of incorporation of the transferor and transferee company, their authorized, subscribed, issued and paid up share capital have been stated.

3. The transferor company has 6 shareholders, who have given their consents/no objection certificates to the proposed scheme, which have been enclosed at pages 82, 86 to 91. It is stated in the application that the transferor company does not have any secured or unsecured creditors. Certificate issued by M/s

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Grewal & Singh, Chartered Accountants to this effect has been enclosed at page 84 of the application.

4. The transferee company has 4 shareholders as per the list given at page 83 of the application. The said shareholders have given their consents/no objection certificates to the proposed scheme of amalgamation, which have been enclosed at pages 92 to 95 of the application. At page 85 of the application, the transferee company has enclosed certificate issued by M/s Grewal & Singh, Chartered Accountants stating that the transferee company does not have any secured creditor but has one unsecured creditor to whom Rs. 30.40 Crores is due and payable as on 8th December, 2010. Mr. Deepak Diwan, Advocate, on instructions from Mr. P.S. Saini, Group Company Secretary states that the current liabilities and provisions shown in the balance sheet as on 30th June, 2010 of the transferee company, have been paid, except for one unsecured creditor as mentioned in the certificate issued by M/s Grewal & Singh, Chartered Accountants. The statement is taken on record. The said unsecured creditor has given consent/no objection certificate to the proposed scheme, which has been enclosed at page 96 of the application.

5. In view of the no objection certificates/consents given by the shareholders of the transferor and the transferee company, the need and requirement to convene and hold meeting of the shareholders of the transferee and the transferee company is dispensed with. The transferor company does not have any secured or unsecured creditors and the transferee company also does not have any secured creditors, therefore, there is no need to convene or hold meeting of the creditors of the transferor company and secured creditors of the transferee company. The transferee company has one unsecured creditor, who has given no objection certificate/consent to the proposed scheme, therefore, the need and requirement to convene and hold meeting of the unsecured creditors of the transferee company is dispensed with. Share exchange ratio will examined at the time of second motion.

6. The application is disposed of.

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