

(2011) 03 MAD CK 0103
In the Madras High Court
Case No : C.P. No's. 41 and 42 of 2011

Chemfab Alkalies Limited

APPELLANT

Vs

Titanium Equipment and Anode Manufacturing Company
Limited
Titanium Equipment and Anode Manufacturing
Company Limited Vs Chemfab Alkalies Limited

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Companies Act, 1956 — Section 391, 392, 393, 394, 394A
Income Tax Act, 1961 — Section 2(19AA)

Citation : (2011) 03 MAD CK 0103

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : P.H. Arvinth Pandian and C.V. Ramachandramurthy, Addl. Central
Govt. Standing, for the Appellant;

Judgement

Vinod K. Sharma, J.—These Company Petitions are filed by the Transferor Company and Transferee Company to sanction Scheme of

arrangement, annexed with the typeset of papers as Annexure-D, so as to be binding on all the Equity Shareholders of the transferee Company,

with effect from 01.12.2010.

2. The Petitioner, M/s. Chemfab Alkalies Limited, in C.P. No. 41 of 2011 is the Transferor Company and the Petitioner, M/s. Titanium Equipment

and Anode Manufacturing Company Limited in C.P. No. 42 of 2011, is the Transferee Company.

3. M/s. Chemfab Alkalies Limited was incorporated under the Companies Act on 16.06.1983 in the Union Territory of Pondicherry. The registered

office of the company was, with due approvals, shifted to the State of Tamil Nadu with effect from 29.07.2009 with its registered office at ""Team

House", GST Salai, Vandalur, Chennai. Whereas, the transferee company M/s. Titanium Equipment and Anode Manufacturing Company Limited,

was incorporated under the Companies Act, 1956, on 25.10.1975 in the State of Tamil Nadu with its registered office at ""Team House", GST

Salai, Vandalur, Chennai.

4. The authorized share of both the companies and the business of transferee company are set out in the Memorandum of Association, attached to

this petition as also mentioned in the petition filed under Sections 391 to 394 of the Companies Act.

5. The scheme of arrangement complies with the provisions of Section 2(19AA) of the Income Tax Act, 1961. As per the scheme, the entire

undertaking of the assets and liabilities of the Transferor (Demerger) company is proposed to be taken over by the Transferee (Resulting)

company, as set out in the scheme of arrangement.

6. The Board of Directors of transferor and transferee companies approved the object of scheme of arrangement, by virtue of which, the transferor

company is proposed to be merged and transferred to the transferee company as running concern.

7. In consideration of the transfer and vesting of the transferor company, in the transferee company, the transferee company is to allot to the

transferor company 1,66,465 (One Lakh Sixty Six Thousand Four Hundred and Sixty Five) 6% Redeemable Cumulative Preference Shares of the

face value of Rs. 100/-each at par in the transferee company, redeemable at par at any time before the expiry of three months from the date of

allotment. There shall be no reduction in the share capital of the transferor company under the scheme.

8. This Court, vide order dated 23.12.2010, passed in C.A.1939 of 2010, was pleased to dispense with the convening, holding and conducting of

meeting of the equity shareholders of Transferor company for considering and if thought fit, approving with or without modification, the scheme of

arrangement between transferor and transferee companies. Notice of the meeting was advertised in the English Daily ""The Hindu Business Line

(All India Edition) and Tamil Daily ""Malai Murasu"" (Tamilnadu Edition) on 22.02.2011.

9. All the shareholders present in the meeting voted in favour of the resolution

and accordingly, the scheme was approved. All equity shareholders of transferee company have also consented to the scheme of arrangement and agreed to dispense with the convening of meeting for approving the said scheme. Holding of meeting of shareholders of transferee company was dispensed with by this Court in C.A. No. 1939 of 2010 on 23.12.2010. The proposed scheme of arrangement will be beneficial to the companies involved and will result in better and efficient operation of the companies. The assets of transferee company are sufficient to meet the liabilities of the transferor company and that the scheme will not adversely affect the rights of any creditors of transferee company in any manner. The transferee company has no secured creditor, a certificate by the Chartered Accountant to this effect has been filed by the transferee company.

10. The Regional Director, Ministry of Corporate Affairs, Chennai submitted his report as under:

I, K. Pandian, S/o. Shri S. Krishnan, Indian, Hindu, aged about 58 years having my office at Shastri Bhavan, Vth Floor, 26, Haddows Road, Chennai 600 006, do hereby solemnly affirm and sincerely state as follows:

1. I am the Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai and I am authorized to file this affidavit on behalf of the Central Government for due consideration of this Hon"ble Court.

2. I respectfully submit that the Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai, had been served with copy of the petitions pursuant to Section 394A of the Companies Act, 1956 in C.P. Nos. 41 and 42 of 2011 and the same have been examined in detail.

4. I submit that the Transferor company and the Transferee Company have their registered offices at Chennai within the jurisdiction of this Hon"ble Court.

5. I further submit that Para 3.12, Part 3 of the scheme protects the interest of all the executives, staff, workmen and other employees of the demerged undertaking of the demerged company, upon arrangement.

11. For the reasons stated, the company petitions are ordered, as the scheme of arrangement will result in better and more efficient operation of the company.

12. The remuneration to the Additional Central Government standing Counsel is

fixed at Rs. 2,500/-for each petition to be paid by the Petitioner companies.