(2021) 11 NCLT CK 0031

In the National Company Law Appellate Tribunal

Case No : C.A.(CAA)-96/ND/2021

CJ Infrastructure Private Limited Vs

Date of Decision : 08-11-2021

Acts Referred:
Companies Act, 2013 — Section 248, 248(5), 252(3)

Citation : (2021) 11 NCLT CK 0031

Hon'ble Judges : Abni Ranjan Kumar Sinha, Member (J);L.N. Gupta, Member (T)

Bench : Division Bench

Advocate : Mukesh Sukhija, Pooja Bhatia

Final Decision : Allowed

Judgement

L. N. Gupta, Member (T)

1. Under consideration is the first motion Application No. C.A.(CAA)-96/ND/2021 filed jointly by the Demerged Company and resultant Company (Hereinafter, together called as the "Applicant Companies") under Sections 230 to 232 of the Companies Act, 2013. The prayer made is to dispense with convening and holding of the meeting of Shareholders and Creditors in relation to the Demerged Company and Resultant Company for approval of the 'Scheme of Demerger', which shall take effect from the Appointed Date of 01.04.2020.

2. That CJ Infrastructure Private Limited (hereinafter referred to as the "Demerged Company"), having CIN U70101DL2005PTC141369 is a private limited company incorporated on 03.10.2005 under the Erstwhile Companies Act, 1956. The registered office of the Demerged Company is situated at 6th Mile Stone Post Chikamberpur, U.P Border New Delhi - 110095.

3. That Greenhours Holding Private Limited (hereinafter referred to as the "Resultant Company") having CIN no. U65100Dl2018PTC342212 is a company incorporated on 27.11.2018 under the Companies Act, 2013. The registered office of the Resultant Company is situated at 15 Lady Harding Road, New Delhi - 110001.

4. That the present Application has been jointly filed by the Demerged Company and the Resultant Company. Therefore, hereinafter they are together referred as the 'Applicant Companies'. That the Registered offices of the Applicant Companies are situated in Delhi and therefore, the jurisdiction lies with this Bench.

5. It is seen from the record that both the Demerged Company and the Resultant Company are under the same management and belong to the same promoter group. It is submitted by the Applicant Companies' that the Board of Directors of Applicant Companies vide their separate meetings held on 10.08.2021 have unanimously approved the proposed 'Scheme of Demerger'.

6. It is stated by the Applicant Companies that the aforesaid Scheme of Demerger will result in the following advantages:

"i) That the Demerged Company is carrying business in two divisions (i) construction business and (ii) strategic investment business. It is proposed to transfer the strategic investment division into the Resultant Company, by way of the proposed Scheme.

ii) The proposed Scheme of Arrangement will result in consolidation and simplification of the group structure Resultant in operational energies and growth. Thereby realigning the business operations as part of overall business reorganization plan.

iii) The proposed Scheme of Arrangement will result in usual economies of a centralized and more productive utilization of human and other resource and enhancement of overall business efficiency in resource management, cost savings Resultant from rationalization, standardization and simplification of business processes.

iv) The proposed Scheme of Arrangement will enable these Companies to combine their managerial and operating strength, to build a wider capital and financial base and to promote and secure overall growth of their businesses.

iv) The said Scheme of Arrangement will contribute in fulfilling and furthering the objects of the, Demerged Company and the Resultant Company. It will strengthen, consolidate and stabilize 31 the business of these Companies and will facilitate further expansion and growth of their business. The Resultant Company will be able to participate more vigorously and profitably in the competitive market scenario ...."

7. That the Demerged Company and Resultant Company have filed their Affidavits dated 28.09.2021 and 30.09.2021 respectively in compliance of Section 230(2)(a) of Companies Act 2013 submitting therein that there are no legal proceeding for inspection, inquiry or investigation under the provisions of the Companies Act are pending against them.

8. That the Applicant Companies have placed on record the Certificate from the

Statutory Auditors confirming that their Accounting Standards are in conformity with the provision of Section 133 of the Companies Act 2013.

9. That the Applicant Companies have filed their respective Memorandum of Association (MoAs) and Articles of Association (AoAs). The Applicant Companies have filed their latest Balance Sheets as on 31.03.2020.

10. That the position regarding the Applicant Company-wise no. of Shareholders and Creditors as on 28.02.2021 and their consent through Affidavits is summarised overleaf :

Company

No. of Share holders

Percentage of Share holders given Consent

No. of Unsecured Creditors

Percentage of Unsecured Creditors given Consent (in value)

CJ Infrastructure Private Limited Applicant No.1 / Demerged Company

3

100%

16

100%

(in value)

Greenhours Holding Private Limited Applicant No. 2 / Resultant Company

2

100%

Nil

N.A.

11. That all the shareholders of the Applicant Companies have given their consent/no objection to the Scheme on respective affidavits. Therefore, the requirement of convening the Meetings of Shareholders in respect of all the Applicant Company is dispensed with.

12. That the '100% in value' of unsecured creditors of both the Applicant Companies have given their consent/'no objection' to the Scheme on respective affidavits. Therefore, the requirement of convening the Meetings of Unsecured Creditors in respect of both the Applicant Companies is dispensed with.

13. Since there are no Secured Creditors in any of the Applicant Companies, the requirement of convening their meeting does not arise.

14. The Application is allowed in the aforesaid terms.

