(2012) 04 KAR CK 0029

In the Karnataka High Court

Case No : Company Application No. 80 of 2012

Consona Software (India) Private Limited S-44, MS Complex New BEL Road RMV Extension Second Stage Bangalore-560 094 Karnataka — APPELLANT

Vs

Nil — RESPONDENT

Date of Decision : 20-04-2012

Acts Referred:

Citation : (2012) 04 KAR CK 0029

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Shyam Sundar H.V., for M/s Fox Mandal Associates, for the Appellant;

Final Decision : Allowed

Judgement

A.S. Bopanna

1. The applicant is the Transferee company. The applicant is before this Court in respect of the Scheme of Amalgamation at Annexure-D seeking dispensation of the meeting of the shareholders. Heard the learned counsel'' for the applicant and perused the application papers.

2. The Scheme of Amalgamation as at Annexure-D is propounded between the applicant herein and the Transferor company. The said scheme was considered by the Board of Directors on 07.10.2011. The Scheme is now to be considered by the shareholders and unsecured creditors. It is in that regard, the applicant is before this Court seeking dispensation of the holding of the meeting of the shareholders. The list as at Annexure-A indicates that there are two shareholders in respect of the applicant company. Though along with the application, the consent letters of the said two shareholders had not been produced, the applicant has thereafter filed a memo on 18.04.2012. Along with the memo, the consent letters by the two shareholders have been enclosed which indicates that

they have considered the Scheme and have indicated their consent.

3. A perusal of the report of the Chartered Accountant indicates that there are no secured and unsecured creditors, but certificate dated 12.01.2012 refers to Sundry Creditors in respect of the applicant company. In that view, the question of seeking the consent of secured creditors in any event does not arise. However, insofar as Sundry Creditors, the value being Rs. 63,141/- and being in the course of business, can be dispensed.

4. In view of the above, considering that the two shareholders of the company have indicated their consent to the Scheme and the question of seeking the consent of the creditors does not arise, I am of the opinion that the prayer made in the application requires to be granted. In any event, ultimately when the applicant is before this Court seeking approval of the Scheme, the filing of the petition would be notified and at that stage, any person concerned to the Scheme would be entitled to approach this Court, if there is any objection to its approval. Therefore, the application is allowed. The meeting of the shareholders and Sundry Creditors is dispensed. In the absence of any secured or unsecured creditors, seeking their consent does not arise. The petition to be filed in two weeks.

