

(2023) 02 NCLT CK 0041
In the National Company Law Tribunal
Case No : CA (CAA) No. 06 /KB/2023
Delcom Properties Private Limited Vs

Date of Decision : 23-02-2023

Acts Referred:

Companies Act, 2013 — Section 230(5)

Companies (Compromises, Arrangements and Amalgamations) Rules 2016 — Rule 8(2)

Citation : (2023) 02 NCLT CK 0041

Hon'ble Judges : Bidisha Banerjee, Member (J); Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Patita Paban Bishwal

Final Decision : Disposed Of

Judgement

Balraj Joshi, Member (Technical)

1. The instant application has been filed in the first stage of the proceedings under Section 230(1) read with Section 232(1) of the Companies Act, 2013 ("Act") for orders and directions with regard to dispensation of meetings of shareholders and creditors in connection with the Scheme of Amalgamation of M/s. DELCOM PROPERTIES PRIVATE LIMITED, being "Transferor Company No. 1", and M/s. DWARAKAPURI BUILDERS PRIVATE LIMITED, being "Transferor Company No. 2", M/s. ICE FABCARE PRIVATE LIMITED being "Transferor Company No. 3", M/s. MINDSCALE PROJECTS PRIVATE LIMITED being "Transferor Company No. 4", M/s. RAIMENT CONSULTANCY SERVICES PRIVATE LIMITED, being "Transferor Company No. 5", M/s. SHIVPHAL DEALMARK PRIVATE LIMITED, being "Transferor Company No. 6", M/s. RUCHI COMMOTRADE PRIVATE LIMITED, being "Transferor Company No. 7", M/s. YOUNGSTERS PROPERTIES PRIVATE LIMITED, being "Transferor Company No. 8" with M/S. VANSH METALIKS PRIVATE LIMITED, being the "Transferee Company" whereby and where under the Transferor Company is proposed to be amalgamated with the Transferee Company from the Appointed Date, viz 1st day of April, 2022 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation ("Scheme").

2. It is submitted by Ld. Counsel appearing for the Applicants that the shares of the Applicant No.1 and Applicant No.2 are not listed. Further, the Applicants have the following classes of shareholders and creditors:-

Sl No.

Name of Applicant Companies

Equity Shareholders

(Nos)

Creditor (Nos)

1

DELCOM PROPERTIES PRIVATE
LIMITED

11

Nil

2

DWARAKAPURI BUILDERS
PRIVATE LIMITED

11

Nil

3

ICE FABCARE PRIVATE LIMITED

11

Nil

4

MINDSCALE PROJECTS PRIVATE
LIMITED

11

Nil

5

RAIMENT CONSULTANCY
SERVICES PRIVATE LIMITED

11

Nil

6

SHIVPHAL DEALMARK PRIVATE
LIMITED

11

Nil

7

RUCHI COMMOTRADE PRIVATE
LIMITED

11

6

8

YOUNGSTERS PROPERTIES
PRIVATE LIMITED

11

Nil

9

VANSH METALIKS PRIVATE LIMITED

11

Nil

3. It is further submitted that all Equity Shareholders of the Applicant No. 1, Applicant No. 2, Applicant No. 3, Applicant No.4, Applicant no. 5, Applicant no. 6, Applicant no. 7, Applicant No. 8 and the Applicant No. 9 have already given their consent to the Scheme by way of affidavits which are annexed to the application. Secured and unsecured Creditors of Applicant No. 8 have also given their consent to the Scheme and Applicant No. 1, Applicant No. 2, Applicant No. 3, Applicant No.4, Applicant no. 5, Applicant no. 6, Applicant no. 7 and Applicant No. 9 has no creditors.

4. Directions are sought accordingly for dispensing with meetings of the classes of equity shareholders and creditors who have already given their consent to the Scheme under Section 230(1) [read with Section 232(1)] of the Act.

5. Upon perusing the records and documents in the instant proceedings and

considering the submissions made on behalf of the Applicant, we allow the instant application and make the following orders:-

Meetings dispensed: Meetings of the Equity Shareholders, of Applicant Companies of the Applicant No. 1, 2, 3, 4, 5, 6, 7, 8 and 9 are dispensed with under Section 230(1) [read with Section 232(1)] of the Act. Since the Applicant Company No. 1,2,3,4,5,6,7 and 9 does not have any creditors, hence the question of conducting meeting of the creditor does not arise.

6. Notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013 shall also be served on the following :

- (i) Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
- (ii) Registrar of Companies, West Bengal;
- (iii) Official Liquidator, High Court of Calcutta; and
- (iv) Income Tax Department having jurisdiction over the Applicants, clearly indicating the PAN of the companies concerned.

These notices shall be sent by hand delivery through special messenger, by post & by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Advocate of the said Applicant. If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme of Amalgamation. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA 3 of the said Rules with necessary variations, incorporating the directions herein.

7. The Applicant to file an affidavit proving service of notices to all statutory/ sectoral authorities and compliance of all directions contained herein within two weeks after such services.

8. The application being Company Application (CAA) No. 06/KB/2023 is disposed of accordingly.

9. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.