

(2022) 04 NCLT CK 0051
In the National Company Law Tribunal
Case No : C.A.(CAA) 17/2022
Goldwin Tracon Private Limited Vs

Date of Decision : 18-04-2022

Acts Referred:

Companies Act, 2013 — Section 230(1), 230(5), 232(1)
Companies (Compromises, Arrangements and Amalgamations) Rules 2016 — Rule 8(2)

Citation : (2022) 04 NCLT CK 0051

Hon'ble Judges : Rajasekhar V.K., Member (J); Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Patita Paban Bishwal

Final Decision : Disposed Of

Judgement

Rajasekhar V.K., Member (Judicial)

1. The court is convened via video conference.
2. 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. Goldwin Tracon Private Limited, being "Transferor Company No.1", M/S. Heruk Properties Private Limited being the "Transferor Company No. 2", M/S. Limelight Suppliers Private Limited being the "Transferor Company No. 3 with M/S. Sinbro Commercial Private Limited, being the "Transferee Company" whereby and whereunder the Transferor Companies are proposed to be amalgamated with the Transferee Company from the Appointed Date, viz 1st day of April, 2021 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation ("Scheme").
3. It is submitted by Ld. Counsel appearing for the Applicants that the shares of the Applicant No.1, Applicant No.2, Applicant No. 3 and Applicant No. 4, 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

Goldwin Tracon Private Limited

9

28

2

Heruk Properties Private Limited

5

Nil

3

Limelight Suppliers Private Limited

5

1

4

Sinbro Commercial Private Limited

5

15

4. It is further submitted that all Equity Shareholders and over 90% in value of Unsecured Creditors of the Applicant No. 1, all Equity Shareholders of the Applicant No.2, all Equity Shareholders and Creditor of the Applicant No.3 and all Equity Shareholders and over 90% in value of Unsecured Creditors of the Applicant No. 4 have already given their consent to the Scheme by way of affidavits which are annexed to the application. Applicant No. 2 has no creditors.

5. 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.

6. 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 and Creditors of the Applicant No. 1,3, 4 are dispensed with under Section 230(1) [read with Section 232(1)] of the Act. Since the applicant Company no. 2 does not have any creditor, hence the question of conducting meeting of the creditor does not arise.

7. 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.

by sending the same by hand delivery through special messenger, by speed post and 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.

8. 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.

9. The application being Company Application (CAA) No.17/KB/2022 is disposed of accordingly. Connected CP to be filed within four weeks.

10. Urgent certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.