(2022) 01 NCLT CK 0072

In the National Company Law Tribunal

Case No : Company Application No. CA(CAAJ-97 (PB) 2021

HMD Healthcare India Private Limited APPELLANT

Vs

Their Respective Shareholders And Creditors RESPONDENT

Date of Decision : 28-01-2022

Acts Referred:
Companies Act, 2013 — Section 230, 232

Citation : (2022) 01 NCLT CK 0072

Hon'ble Judges : Ram Alin Gam Sudhakar, President Member;Hemant Kumar Sarangi, Member, T

Bench : Division Bench

Advocate : Chitta Ranjan Biswal

Final Decision : Disposed Of

Judgement

Hemant Kumar Sarangi Member (Technical)

1. This is joint application, filed by the applicant companies herein, HMD Healthcare India Private Limited (â??brevity Transferor Companyâ?), with

Niraj Industries Private Limited (â??brevity Transferee Companyâ?), under the provisions of Sections 230-232 of Companies Act, 2013, and other

applicable provisions of the Companies Act, 2013, read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to

the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the â??SCHEMEâ??) proposed between the applicants.

2. It is represented that the registered offices of all the applicant companies are situated in New Delhi and therefore the subject matter of this joint

application falls within the Jurisdiction of this Bench.

3. Â The Transferor Company is a private limited company, originally incorporated on 14th March, 1990 under the name and style of 'Hindustan

Syringes Export Private Limited7 and further the name was changed to â??HMD Healthcare India Private Limitedâ? with the same the fresh

certificate of incorporation was issued on 25th July, 2013 under the provisions of Companies Act, 1956. bearing CIN U74899DL1990PTC039511 with

registrar of Companies, NCT of Delhi and Haryana, having its registered office at 901, Narain Manzil, 23 Barakhamba Road, New-Delhi-110001. The

Authorized Share Capital of the Transferor Company is Rs. 50,00,000/- divided into 50,000 equity shares of Rs. 100/- each, while its issued, subscribed

and paid-up capital is Rs. 6,40,000/- divided into 6,400 equity shares of Rs. 100/- each up as on 31st March, 2021.

4. Â The Transferee Company is a private limited company, incorporated under the provisions of Companies Act, 1956 on 21st November 1980,

vide CIN U74899DL1980PTC01 1063 with Registrar of Companies, NCT of Delhi 8s Haryana in the name and style of â?N?iraj Industries

Private Limitedâ? having its registered office at 901, Narain Manzil, 23 Barakhamba Road, New-Delhi-110001. The Authorized Share Capital of

Transferee Company is of Rs. 25,00,000/- divided into 25,000 equity shares of Rs. 100/- each, while its issued, subscribed, and paid-up share capital of

Rs. 7,00,000/- divided into 7,000 equity shares of Rs. 100/- each up as on 31.03.2021.

5. Â The Transferor Company, as well as the Transferee Company, have filed their respective Memoranda and Articles of Associations, inter alia,

delineating their object clauses, as well as their latest Audited Annual Accounts, for the financial Years 2020-21 and filed their balance sheets of both

applicant companies, as on 31.03.2021 annexed herewith.

6. Â All the Applicant companies, vide meeting of Board of Directors held on 10.08.2021, have unanimously, approved the proposed Scheme of

Amalgamation, as contemplated above. Copies of respective resolutions, passed in the said respective board meetings, have been placed on record.

7. With regards the Transferor Company it is stated as under:

a) Â The company has 3 Equity Shareholders, certificate from Chartered Accountants certifying list of shareholders is annexed and all of them have

given their respective consent by way of affidavits holding 100% of voting share.

b) Â The Company has (NIL) Secured Creditor, Certificate from Chartered Accountants certifying Nil Secured Creditors, is annexed. Hence, the issue of obtaining consent does not arise.

c) Â The company has (01) Unsecured Creditor, Certificate from Chartered Accountants certifying list of Unsecured Creditors is annexed; and the

consent has been given by the sole unsecured creditor by way of consent affidavit holding 1 00% voting share.

In relation to the above it is prayed by the applicants to dispensed with the holding/convening of the meetings of the equity shareholders, secured and

unsecured Creditors, as 100% consent affidavits are placed on record.

8. With regards to the Transferee Company, it is stated as under:

a) Â The company has (03) Equity Shareholders, certificate from Chartered Accountants certifying list of shareholders is annexed and all of them

have given their respective consent and no objection by way of affidavits holding 100% of total value.

b) Â The Company has (NIL) Secured Creditor; Certificate from Chartered Accountants certifying Nil Secured Creditors is annexed, Therefore the

issue of obtaining consent does not arise.

c) Â and all the creditors has given their consent by way of affidavit holding 100% of total value.

d) Â The company has (12) Unsecured Creditors, Certificate from Chartered Accountants certifying the list of Unsecured Creditors is annexed and

the creditors has given consent by way of affidavit^holding 100% of total value.

In relation to the equity shareholders, secured creditors and unsecured creditors it seeks dispensing with holding/convening of the meetings as their

consent affidavits are placed on record.

9. Â The appointed date, as specified in the Scheme, is 1st April 2021 subject to the directions of this Tribunal.

10. Â Taking into consideration the submissions and the documents placed on record, we issue the following directions with respect to

convening/holding or dispensing with the meetings of the Equity Shareholders, Secured and Unsecured Creditors as follows:

A. In relation to the Transferor Company;

a. With respect to Equity shareholders: In view of consent affidavits from all equity shareholders having 100% voting share been filed. Therefore,

the requirement for convening/holding the meeting of shareholders/members is hereby dispensed with.

b. With respect to Secured Creditor: In view of Nil secured creditor the issue of convening and dispensing the meeting does not arise.

c. Â With respect to Unsecured Creditors: In view of consent affidavits, submitted from one unsecured creditor having 100% value been filed,

convening the meeting of unsecured creditors/members is hereby dispensed with.

B. In relation to the Transferee Company:

a. Â With respect to Equity and shareholders: In view of consent affidavits, from all the equity shareholders having 100% voting shares have

been filed, and convening the meeting of shareholders/members is dispensed with.

b. Â With respect to Secured Creditors: In view of Nil secured creditor the issue of convening and dispensing the meeting does not arise.

c. Â With respect to Unsecured Creditors: In view of consent affidavits, submitted from 12 unsecured creditor having 100% value been filed,

convening /holding the meeting of unsecured creditors is hereby dispensed with.

11. The applicants are directed to serve the notice of the proposed Scheme on the Regional Director, Ministry of Corporate Affairs, B-2, Wing. 2nd

Floor, Paryavaran Bhawan, CGO Complex, New Delhi - 110003, Registrar of Companies at 4th Floor, IFCI Tower, 61 Nehru Place, New Delhi -

110019, The Official Liquidator, Lok Nayak Bhawan, 8th Floor, Khan Market, New Delhi - 110001, the Office of the Income Tax Department,

Income Tax Officer, Ward - 7 (4), Central Revenue Building, IP Estate, New Delhi - 110002 and the Office of the Income Tax, Additional

Commissioner of Income Tax, Special Range-4, Central Revenue Building, IP Estate, New Delhi - 110002. The notice to Income Tax Authorities shall

disclose sufficient details like PAN Numbers, ward numbers and assessing officers so that the proper reply may be filed.

12. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the

Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

13. The application stands allowed on the aforesaid terms and disposed of.

