

(2009) 09 GUJ CK 0038

In the Gujarat High Court

Case No : Company Petition No. 134 of 2009 in Company Application No. 166 of 2009

In Re: Aarti Industries Ltd.

Date of Decision : 01-09-2009

Acts Referred:

Citation : (2010) 102 SCL 325

Hon'ble Judges : Jayant M. Patel, J

Bench : Single Bench

Advocate : Chudgar, for the Appellant; M. Iqbal Sheikh, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—The present petition has been preferred for seeking sanction to the Scheme of Amalgamation of M/s. Avinash Drugs Limited and M/s. Surfactant Specialities Limited (Transferor-Companies) with M/s. Aarti Industries Limited (Transferee-Company).

2. The Scheme is produced at Annexure "A" of the petition.

3. It has been stated that the Transferor-Companies are having registered office in the State of Maharashtra and the petition has been filed in the High Court of Bombay for seeking sanction. Mr. Chudgar, Learned Counsel for the petitioner, also stated that the High Court of Bombay has granted sanction to the Scheme of Amalgamation on 7-8-2009.

4. It appears that vide order dated 13-4-2009 passed by this Court in Company Application No. 166 of 2009, the meetings of equity shareholders, secured creditors as well as unsecured creditors were ordered to be convened. Thereafter, all the meetings have been convened and the respective Chairmen of the meetings have filed reports before this Court. As per the reports filed by the Chairmen of the meetings, the Scheme was approved by all the equity shareholders, secured creditors, as well as unsecured creditors present and voting at the meetings.

5. The present petition came to be admitted on 22-6-2009 and the publication was ordered in English daily, Times of India (Ahmedabad Edition) and Gujarat Samachar, Gujarati daily (Surat Edition). The publication in the Official Gazette was dispensed with.

6. Notice was also issued to the Central Government through Regional Director, Department or Company Affairs, Mumbai.

7. The affidavit has been filed on behalf of the petitioner-company dated 7-7-2009 by Shri Ashish Kantawala, authorised signatory of the petitioner-company, stating that the order for publication has been complied with and the relevant extracts of the paper publications are also produced with the said affidavit.

8. In response to the notice issued to the Central Government, affidavit has been filed by Mr. R.K. Dalmia, Dy. Registrar of Companies, based on the correspondence received by the Office of the Registrar of Companies, Gujarat from the Regional Director dated 5-8-2009. As per the said affidavit, the Scheme has been examined by the Directorate, and it has been decided not to oppose the same and, therefore, there is no objection raised on behalf of the Central Government.

9. As the Transferee-company is a listed company, there would be requirement for "No Objection Certificate" of the concerned Stock Exchange. It appears that on 2-3-2009, the Bombay Stock Exchange has issued "No Objection Certificate" for the scheme and the copy of the "No Objection Certificate" is produced on pages 126 and 127.

10. It further appears that the appointed date is mentioned as 1-4-2008 in the Scheme, but the process is initiated for convening of the meetings by the petitioner for the first time after the end of the accounting year of 2008-09. I would have further considered the matter, however, it has been stated on behalf of the petitioner that the High Court of Bombay has already sanctioned the Scheme with the said appointed date on 1-4-2008. Under these circumstances, with a view to avoid complications in implementation of the Scheme, in the event, the appointed date is altered by this Court, no order is passed for change in the appointed date, keeping in view the peculiar circumstances.

11. No other adverse circumstances are brought to the notice of this Court.

12. In view of the above, the present Scheme of Amalgamation at Annexure-A is sanctioned in accordance with the provisions of the Companies Act.

13. The petition is allowed accordingly.

14. The cost of the Central Government is quantified at Rs. 3,500.