

(2003) 09 GUJ CK 0008
In the Gujarat High Court
Case No : Company Petition No. 164 of 2003
In Re: AIA Engg. (P.) Ltd.

Date of Decision : 26-09-2003

Acts Referred:

Companies Act, 1956 — Section 391, 392, 393, 394

Citation : (2004) 52 SCL 43

Hon'ble Judges : C.K. Buch, J

Bench : Single Bench

Advocate : Sandeep Singhi and Mihir Joshi, for the Appellant;

Judgement

C.K.Buch, J.—Heard Id. counsel Mr. Mihir Joshi appearing for Id. counsel Mr. Sandeep Singhi for Singhi & Co. for the petitioner Company and Ms. Davawala, Ld. Addl. Central Government Standing Counsel. Id. counsel Mr. Mihir Joshi has taken me through the Scheme of Amalgamation of AIA Exports Pvt. Ltd. (Transferor Company) with AIA Engineering Private Limited (Transferee Company) including reduction of paid-up Share Capital whereby the Undertakings (as defined in the Scheme) of the Transferor Company shall stand transferred to and vest in the Transferee Company on the terms and conditions stated in the Scheme of Amalgamation and that the Paid-up Share Capital of the petitioner Company shall stand reduced as provided in the Scheme as integral part thereof. I have considered the contents of the petition and the totality reflected from the annexures annexed with the petition.

2. The present Company Petition is filed for sanctioning the arrangement embodied in the Scheme of Amalgamation of AIA Exports Pvt. Ltd. (Transferor Company) with AIA Engineering Private Limited (Transferee Company) including reduction of Paid-up Share Capital whereby the Undertakings (as defined in the Scheme) of the Transferor Company shall stand transferred to and vest in the Transferee Company on the terms and conditions stated in the Scheme of Amalgamation and that the Paid-up Share Capital of the petitioner Company shall stand reduced as provided in the Scheme as integral part thereof.

3. Earlier, by Order dated 9th May, 2003 in Company Application No. 251 of 2003

preferred by the petitioner Company for sanctioning the scheme of Amalgamation which includes reduction of Paid-up Share Capital, this Court dispensed with the requirement of holding of the meeting of the Preference Shareholders and Equity Shareholders to the petitioner Company. This Court in the said order, dispensed with the meeting of the creditors of the Petitioner Company in light of the fact that the rights and interest of the creditors of the petitioner Company are not affected in any manner and also dispensed with following a separate procedure for reduction of Paid-up Share Capital as the same was integral part of the Scheme.

4. By order dated 23rd May, 2003, the present petition was admitted and the notices were issued to the Central Government through Regional Director, Department of Company Affairs. The notices were also ordered to be published in two newspapers. Pursuant to the same an Affidavit of one Mr. Lalo Panchal dated 19th June, 2003 has been filed confirming the publication of the notice in two newspapers as directed and service of notices on the Regional Director.

5. The letter dated 18-9-2003 addressed by the Registrar of Companies, Gujarat to Ms. P.J. Davawala, Addl. Central Government Standing Counsel along with the letter of Regional Director, dated 10-9-2003 is placed on record by Ms. Davawala and the same is taken on record in Company Petition No. 163 of 2003. In his letter, Regional Director has stated that "the petitions on amalgamation have been examined. There is no objection on such amalgamation and the matter may be left to the Hon"ble Court to decide on its merits. "For short, there is no resistance by the other side.

6. Therefore, in view of the above considerations, this Court holds that there are no ground or circumstances to refuse to grant approval. On going through the Scheme, it appears that the requirement of the provisions of Sections 391 to 394 of the Companies Act, 1956 are satisfied and there appears to be cogent grounds for accepting the Scheme which is proposed. The Scheme is genuine and bona fide and in the interest of shareholders and creditors of the petitioner Company. I, therefore, accordingly allowed this petition and approve the arrangement embodied in the Scheme of Amalgamation including reduction of Paid-up Share Capital at Annex. C to the petition. Reliefs in terms of Para 19(d) to 19(j) in this petition are hereby granted.

7. The fees of learned Addl. Central Government Standing Counsel Mr. P.J. Davawala is quantified at Rs. 3,500 (Rs. Three Thousand Five Hundred only) to be paid by the petitioner Company.