(2015) 04 DEL CK 0296

In the Delhi High Court

Case No : Company Application (Main) No. 40 of 2015

In Re: Allied Trademart Private Limited and Others

Date of Decision : 23-04-2015

Acts Referred:
Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2015) 04 DEL CK 0296

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Praveen Kumar Mittal, for the Appellant

Final Decision : Allowed

Judgement

Sudershan Kumar Misra, J.

1. This joint application has been filed under Sections 391 and 394 of the Companies Act, 1956 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Allied Trademart Private Limited (hereinafter referred to as the transferor company no. 1); Anmol Advertising Private Limited (hereinafter referred to as the transferor company no. 2); City Green Tour and Travels Private Limited (hereinafter referred to as the transferor company no. 3); Classic Corporate Consultancy Private Limited (hereinafter referred to as the transferor company no. 4); Kuber Parivahan Private Limited (hereinafter referred to as the transferor company no. 5); Niti Marketing and Services Private Limited (hereinafter referred to as the transferor company no. 6); Olivian Advertising Private Limited (hereinafter referred to as the transferor company no. 7); Perfect Infotech Private Limited (hereinafter referred to as the transferor company no. 8); Realvalue Land Infra Private Limited (hereinafter referred to as the transferor company no. 9); Treya Technologies Private Limited (hereinafter referred to as the transferor company no. 10); Talent eServices Private Limited (hereinafter referred to as the transferor company no. 11); Vishay Electric Private Limited (hereinafter referred

to as the transferor company no. 12); and YGR Enterprises Private Limited (hereinafter referred to as the transferor company no. 13) with JMR Buildwell Private Limited (hereinafter referred to as transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company no. 1 was originally incorporated under the Companies Act, 1956 on 24th April, 2002 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi under the name and style of Allied Quartzite Private Limited. The company changed its name to Allied Trademart Private Limited and obtained the fresh certificate of incorporation on 13th April, 2011.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 16th June, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 16th March, 2010 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

6. The transferor company no. 4 was incorporated under the Companies Act, 1956 on 23rd December, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

7. The transferor company no. 5 was incorporated under the Companies Act, 1956 on 2nd April, 2007 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

8. The transferor company no. 6 was originally incorporated under the Companies Act, 1956 on 24th March, 2005 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi under the name and style of Nirvana Educareers India Private Limited. The company changed its name to Niti Marketing and Services Private Limited and obtained the fresh certificate of incorporation on 13th May, 2010.

9. The transferor company no. 7 was incorporated under the Companies Act, 1956 on 17th February, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

10. The transferor company no. 8 was incorporated under the Companies Act, 1956 on 24th April, 2007 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

11. The transferor company no. 9 was incorporated under the Companies Act, 1956 on 9th June, 2010 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

12. The transferor company no. 10 was incorporated under the Companies Act, 1956 on 20th November, 2009 with the Registrar of Companies, NCT of Delhi and

Haryana at New Delhi.

13. The transferor company no. 11 was incorporated under the Companies Act, 1956 on 6th February, 2008 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

14. The transferor company no. 12 was originally incorporated under the Companies Act, 1956 on 9th November, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi under the name and style of Vishay Electric Limited. The company changed its name to Vishay Electric Private Limited and obtained the fresh certificate of incorporation on 29th October, 2010.

15. The transferor company no. 13 was incorporated under the Companies Act, 1956 on 27th May, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

16. The transferee company was incorporated under the Companies Act, 1956 on 19th June, 2007 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

17. The present authorized share capital of the transferor company no. 1 is Rs. 10,00,000/- divided into 1,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 1,50,000/- divided into 15,000 equity shares of Rs. 10/- each.

18. The present authorized share capital of the transferor company no. 2 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 3,50,000/- divided into 35,000 equity shares of Rs. 10/- each.

19. The present authorized share capital of the transferor company no. 3 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 3,50,000/- divided into 35,000 equity shares of Rs. 10/- each.

20. The present authorized share capital of the transferor company no. 4 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 2,25,000/- divided into 22,500 equity shares of Rs. 10/- each.

21. The present authorized share capital of the transferor company no. 5 is Rs. 25,00,000/- divided into 2,50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 25,00,000/- divided into 2,50,000 equity shares of Rs. 10/- each.

22. The present authorized share capital of the transferor company no. 6 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 4,99,000/- divided into 49,900 equity shares of Rs. 10/- each.

23. The present authorized share capital of the transferor company no. 7 is Rs. 2,00,000/- divided into 20,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 1,30,000/- divided into 13,000 equity shares of Rs. 10/- each.

24. The present authorized share capital of the transferor company no. 8 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 4,98,000/- divided into 49,800 equity shares of Rs. 10/- each.

25. The present authorized share capital of the transferor company no. 9 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 3,12,500/- divided into 31,250 equity shares of Rs. 10/- each.

26. The present authorized share capital of the transferor company no. 10 is Rs. 10,00,000/- divided into 1,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs.2,00,000/- divided into 20,000 equity shares of Rs. 10/- each.

27. The present authorized share capital of the transferor company no. 11 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs. 3,78,500/- divided into 37,850 equity shares of Rs. 10/- each.

28. The present authorized share capital of the transferor company no. 12 is Rs. 10,00,000/- divided into 1,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs.7,25,000/- divided into 72,500 equity shares of Rs. 10/- each.

29. The present authorized share capital of the transferor company no. 13 is Rs. 25,00,000/- divided into 2,50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the companies is Rs.1,00,000/- divided into 10,000 equity shares of Rs. 10/- each.

30. The present authorized share capital of the transferee company is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The present issued, subscribed and paid-up share capital of the company is Rs. 4,99,000/- divided into 49,900 equity shares of Rs. 10/- each.

31. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, have also been filed.

32. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavit. It is claimed by the applicants that the Scheme will result in pooling of their financial, commercial, and other

resources, economies of scale and reduction of overheads. It is further claimed that with enhanced capabilities and resources at its disposal, the transferee company will have greater flexibility and strength to meet requirements for further growth of business activities.

33. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the transferor companies in the following ratio:

"82 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 1."

"118 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 2."

"116 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 3."

"93 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 4."

"09 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 5."

"68 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 6."

"98 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 7."

"72 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 8."

"113 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 9."

"09 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 10."

"106 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 11."

"56 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 12."

"06 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs. 10/- each held in the transferor company no. 13."

34. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

35. The Board of Directors of the transferor and transferee companies in their separate meetings held on 9th February, 2015 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

36. The transferor company no. 1 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 1, as on 9th February, 2015.

37. The transferor company no. 2 has 06 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 2, as on 9th February, 2015.

38. The transferor company no. 3 has 04 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditor of the transferor company no. 3 to consider and, if thought fit, approve, with or without

modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 3, as on 9th February, 2015.

39. The transferor company no. 4 has 14 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditor of the transferor company no. 4 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 4, as on 9th February, 2015.

40. The transferor company no. 5 has 05 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 5 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 5, as on 9th February, 2015.

41. The transferor company no. 6 has 07 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditor of the transferor company no. 6 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 6, as on 9th February, 2015.

42. The transferor company no. 7 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 7 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 7, as on 9th February, 2015.

43. The transferor company no. 8 has 07 equity shareholders and 03 unsecured creditors. All the equity shareholders and all the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They

have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the transferor company no. 8 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 8, as on 9th February, 2015.

44. The transferor company no. 9 has 11 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 9 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 9, as on 9th February, 2015.

45. The transferor company no. 10 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 10 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 10, as on 9th February, 2015.

46. The transferor company no. 11 has 18 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 11 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 11, as on 9th February, 2015.

47. The transferor company no. 12 has 06 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 12 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 12, as on 9th February, 2015.

48. The transferor company no. 13 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company no. 13 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 13, as on 9th February, 2015.

49. The transferee company has 05 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditor of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferee company, as on 9th February, 2015.

50. The application stands allowed in the aforesaid terms.

