(2012) 08 DEL CK 0298

In the Delhi High Court

Case No : Co. Application (M) No. 127 of 2012

In Re: Auto Gallon Industries Private Limited and Auto Ignition Limited

Date of Decision : 27-08-2012

Acts Referred:
Companies Act, 1956 — Section 235, 251, 391, 394

Citation : (2012) 08 DEL CK 0298

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Rajeev Kumar with Ms. Alka Srivastava, for the Appellant;

Final Decision : Allowed

Judgement

Indermeet Kaur, J.—This is a first motion joint Application under Sections 391 & 394 of the Companies Act, 1956. (for short ''Act''), in connection with the Scheme of Amalgamation (for short ''Scheme''). A copy of the Scheme is filed along with the Application. It is stated that the Registered Office of the Applicant Companies are situated within the National Capital Territory of Delhi and within the jurisdiction of this Court.

2. Learned counsel for the Applicant Companies submits that no proceedings under Sections 235 to 251 of the Act is pending against the Applicant Companies as on the date of the present Application.

3. The proposed Scheme has been approved by the Board of Directors of Applicant Companies.

4. Status of the Shareholders, Secured and Un-secured Creditors of the Applicant Companies except of the Secured Creditors of the Transferee Company and the consents obtained from them for the proposed Scheme is clearly apparent from the chart given in the Application which is as below:-

Company

No. of Share holders

Consent given

No. of secured Creditors

''Consent given''

No. of Unsecured Creditors

Consent given

Transferor Company

2

All

NIL

NA

NIL

NA

Transferee Company

7

All

5

NIL

257-212

96.20%

5. A prayer has been made for dispensation of the requirement of convening the meetings of Shareholders of both the Transferor and Transferee Companies and also of the Un-secured Creditors of the Transferee Company.

6. In view of the written consents/NOC given by all the shareholders of Transferor and Transferee Companies, the requirement of convening the meetings of shareholders of Transferor and Transferee Companies is dispensed with.

7. In view of the written consents/NOC given by 96.20 % in value of the total Un-secured creditors of the Transferee Company, the requirement of convening the meetings of Un-secured creditors of the Transferee Company is dispensed with. Further, as there are no Un-secured and Secured Creditors in the Transferor Company, question of convening their meetings does not arise.

8. A meeting of only Secured Creditors of the Transferee Company is proposed to be held under the supervision of this Court. Consequently, I direct that a meeting

of Secured Creditors of the Transferee Company shall be held on 10th October at 11:30 A. M. at N-240, Greater Kailash Part-I, New Delhi- 110 048, the registered office of the Transferee Company.

9. Mr. Mike Desai, Advocate, Cell No. 9811043730, is appointed as Chairperson and Mr. D.S. Bhandari, Court Official, Cell No. 9910390912, is appointed as the Alternate Chairperson to conduct the meeting of the Secured Creditor of the Transferee Company. They shall be paid fees of Rs. 50,0000/- each. Ms. Kanchan Gauri, Court Official, Cell No. 9958494443 and Mr. Balkrishan, Court Official, Cell No. 9718049074 shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs. 10,000/- each for this purpose.

10. The Transferee Company is also directed to publish advance notice of the aforesaid proposed meeting in ''Indian Express'' (English, Delhi Edition) and ''Jansatta''(Hindi, Delhi Edition). The advertisement shall be published minimum 21 days in advance before the scheduled date of the meeting.

11. Individual notices of the proposed meeting would be sent by ordinary post minimum 21 days in advance before the scheduled date of the meeting. The Chairpersons will ensure that dispatch is made under their supervision/or their authorized representative.

12. The quorum of the meeting of the Secured Creditor of the Transferee Company is fixed as follows:-

Company

Secured Creditor No.

Transferee Company

5

13. It is also directed that if the quorum is not present in the meeting, the meeting would be adjourned for 30 minutes and the person present in the meeting would be treated as the proper quorum.

14. Voting by proxy is permitted provided that the proxy in the prescribed form and duly signed by the person entitled to attend and vote at the aforesaid meeting or by his authorised representative, is filed with the Company at its registered office, not less than 48 hours before the said meeting.

15. The Chairpersons/Alternative Chairperson shall file their reports within two weeks of the conclusion of the meeting. The application stands allowed in the aforesaid terms.

Order Dasti.