

(2012) 12 DEL CK 0139

In the Delhi High Court

Case No : Co. Application (M) 179 of 2012

In Re: eMeter India Pvt. Ltd. and Siemens Technology and Services Pvt. Ltd.

Date of Decision : 05-12-2012

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2012) 12 DEL CK 0139

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Sharat Vaid and Mr. S. Jain, for the Appellant;

Final Decision : Allowed

Judgement

Indermeet Kaur, J.

CO. APPL. (M) 179/2012

1. This is an application under Sections 391 to 394 of the Companies Act, 1956 ("the Act") seeking directions from this Hon'ble court for

dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the Applicant Transferor Company for the

purpose of considering and if thought fit, approving with or without modifications, the Scheme of Amalgamation of eMETER INDIA PRIVATE

LIMITED with SIEMENS TECHNOLOGY AND SERVICES PRIVATE LIMITED (hereinafter referred to as "the Scheme") on the terms and

conditions and for the consideration as stated in the said Scheme, a copy whereof has been annexed and marked as Annexure "B" to the Affidavit

in Support of Summons submitted with the present Company Application. The registered office of the Applicant Transferor Company, eMETER

INDIA PRIVATE LIMITED, is situated in New Delhi within the jurisdiction of this Court and the registered office of SIEMENS

TECHNOLOGY AND SERVICES PRIVATE LIMITED, the Transferee Company, is situated in Mumbai and is therefore not within the jurisdiction of this Court.

2. In the application, details with regard to date of incorporation of Applicant Transferor Company and Transferee Company and their authorised, issued, subscribed and paid-up share capital have been stated. Along with the application, the Memorandum of Association and Articles of Association, the latest unaudited balance sheets as on 31 August 2012 and latest audited balance sheets of Applicant Transferor Company and Transferee Company have also been enclosed. The latest audited balance sheets of the Applicant Transferor Company and Transferee Company are as on 31 March 2012 and 30 September 2011, respectively.

3. Mr. Sharad Vaid, learned counsel, submitted that no proceedings are pending against the Applicant Transferor Company u/s 235 to 251 of the Act.

4. Mr Sharad Vaid pointed out that Applicant Transferor Company is a wholly owned subsidiary of the Transferee Company and that all the shareholders of the Applicant Transferor Company i.e. the Transferee Company as also its nominee holding 100% of the equity share capital of the Applicant Transferor Company, have given their consent in writing to the Scheme which have been annexed at pages 191 to 192 of the paper book and copy of Board resolution passed by the respective Board of directors of the holding company and its nominee company, holding shares of the Applicant Transferor Company, approving the Scheme, have also been submitted.

5. Mr Sharad Vaid pointed out to the certificate of M/s. R.S. Kelkar & Co, Chartered Accountants which has been annexed at page 190 of the paper book, certifying that as on 6 November 2012, the Applicant Transferor Company was having no secured or unsecured creditors in the company. In view of this, he has stated that there is no need for convening and holding meetings of either secured or unsecured creditors" of the Applicant Transferor Company as it does not have any creditors.

6. Keeping in view the aforesaid as well as the fact that all the shareholders of the Applicant Transferor Company have given their consent to the Scheme in writing and that the Applicant Transferor Company does not have any

secured or unsecured creditors at all, the convening and holding of meetings of equity shareholders as also of the creditor of the Applicant Transferor Company are dispensed with. The application stands allowed in the aforesaid terms.

Co. Appl. 2332/2012

This application has been filed subsequently i.e. on 01.12.2012. For hearing, renotify for 16.01.2013.