(2015) 04 DEL CK 0234

In the Delhi High Court

Case No : Company Application (Main) No. 39 of 2015

In Re: FIL India Business Services Private Limited and Others

Date of Decision : 16-04-2015

Acts Referred:
Companies Act, 1956 — Section 235, 236, 237, 238, 239
Companies Act, 2013 — Section 210, 212(1), 214, 215, 216(1)

Citation : (2015) 04 DEL CK 0234

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Mahesh Aggarwal and Rajeev Kumar, 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 read with Rules 6 and 9 of the Companies (Court) Rules, 1959 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 FIL India Business Services Private Limited (hereinafter referred to as the transferor company) with FIL Research (India) Private Limited (hereinafter referred to as the 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 was incorporated under the Companies Act, 1956 on 27th March, 2009 with the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 7th November, 2007 with the Registrar of Companies, Maharashtra at Mumbai under the name and style of Fidelity Funds Network Private Limited. The company changed its name to FIL Funds Network Private Limited and obtained

the fresh certificate of incorporation on 11th June, 2008. The company again changed its name to FIL Research (India) Private Limited and obtained the fresh certificate of incorporation on 23rd May, 2012. Thereafter, the company shifted its registered office from the State of Maharashtra to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi and Haryana at New Delhi on 17th December, 2014.

5. The present authorized share capital of the transferor company is Rs. 50,00,000/- divided into 5,00,000 equity shares of Rs. 10/- each. The present issued, subscribed and paid-up share capital of the company is Rs. 1,47,130/- divided into 14,713 equity shares of Rs. 10/- each fully paid-up.

6. The present authorized share capital of the transferee company is Rs. 2,99,00,00,000/- divided into 29,90,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 2,43,85,39,370/- divided into 24,38,53,937 equity shares of Rs. 10/- each fully paid-up.

7. 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.

8. 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 that the amalgamation will result in reduction of overheads, administrative and other expenditure and bring about operational rationalization, organizational efficiency and optimal utilization of various resources. It is further claimed that proposed amalgamation will provide an opportunity to leverage combined assets and capital better, build a stronger sustainable business, improve the potential for further growth and expansion of the businesses of the two companies.

9. So far as the share exchange ratio is concerned, the Scheme provides that since the transferor company is a wholly owned subsidiary of the transferee company, the transferee company shall not issue any share or pay any consideration to the transferor company or to its shareholders pursuant to the sanction of this Scheme.

10. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and/or under Sections 210, 212(1) to (7) and (11) to (17), 214, 215, 216(1) and (3), 217, 219, 220, 223, 224(1), (3) and (4), and 225 of the Companies Act, 2013 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 9th March, 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.

12. The transferor company 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 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, as on 11th March, 2015.

13. The transferee company 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 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 or unsecured creditor of the transferee company, as on 11th March, 2015.

14. The application stands allowed in the aforesaid terms.