(2015) 02 MAD CK 0388

In the Madras High Court

Case No : Company Petition Nos. 386 and 387 of 2014

In Re: Kar Mobiles Limited and Others

Date of Decision : 26-02-2015

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

Citation : (2015) 02 MAD CK 0388

Hon'ble Judges : R. Mahadevan, J

Bench : Single Bench

Advocate : Ramakrishnan, for the Appellant

Final Decision : Allowed

Judgement

R. Mahadevan, J.

1. These company petitions are preferred under Sections 391 to 394 of the Companies Act, 1956, for sanctioning the scheme of amalgamation of the transferor company with the transferee company with effect from 1.4.2014.

2. The facts set out by the petitioner company in C.P. No. 386 of 2014 (hereinafter referred to as the ''transferor company'') in nutshell are set out hereunder:

(a) The Transferor company was originally incorporated under the Indian Companies Act, 1913, as a public company under the name and style of Cochin State Power and Light Corporation Limited on January 07, 1936. The name was changed from Cochin State Power and Light Corporation Limited to Kar Valves Limited on April 24, 1974. Subsequently the Company changed its name to Kar Mobiles Limited on September 08, 1983. The main objects of the Transferor company are set out in the Memorandum of Association of the Company and the extracts of the main objects were briefly stated in paragraph No. 5 of the petition.

(b) The Board of Directors of the transferor company have, at its meetings held on 20.5.2014 approved and adopted a scheme of amalgamation, subject to confirmation of this Court. The Board''s Resolutions are filed as Annexure-3.

(c) The proposed Scheme of Amalgamation will be beneficial to both the companies and will result in better and more efficient operation of the companies. The assets of both the companies are more than sufficient to meet the liabilities of the transferor company and the transferee company and the scheme will not adversely affect the rights of any of the creditors of the transferor company.

(d) As on 1st August 2014, the transferor company has three secured creditors. A chartered Accountant''s Certificate to that effect that the transferor company has three secured creditors is filed as Annexure-6. The consent letters of the secured creditors are annexed as Annexure-7.

(e) The number of Equity Shareholders in the transferor company, as on 22.8.2014, is 1878.

(f) By an order dated 09.09.2014 in C.A. No. 875 of 2014 this Court directed the transferor company to convene the meeting of its equity shareholders for the purpose of considering and approving the scheme of amalgamation of the transferor company with transferee company. The Chairman, who was so appointed, for the said purpose has convened the meeting, after paper publication. A copy of the Chairman''s Report and affidavit are filed as Annexure-4.

(g) In addition to the aforesaid meeting, the transferor company also conducted postal ballot and e-voting as required under the SEBI circulars CIR/CFRD/ DIL/5/2013, February 4, 2013 and CIR/CF/DIL/8/2013 dated May 21, 2013 by public shareholders (other than promoter and promoter group shareholders). The minutes of the declaration of results on the voting by postal ballot and e-voting on the resolution together with the results of the postal ballot and e-voting and the scrutinizer''s report are filed as Annexure-5.

Thus, setting out the above facts, the transferor company has come up with the Scheme of Amalgamation to be approved by this Court.

3. C.P. No. 387 of 2014 was filed by Rane Engine Valve Limited (herein after referred to as the ''transferee company'') for the same purpose for which the transferor company has filed the C.P. No. 386 of 2014.

4. The facts set out in C.P. No. 387 of 2014 by the transferee company, in nutshell, are set out hereunder:

(a) The Transferee Company was incorporated under the Companies Act, 1956, as a public limited company under the name and style of "Techcons Limited" on March 09, 1972. Subsequently, the name was changed to "Rane Engine Valve Limited" on February 06, 2008. The registered office of the Transferee Company is situated at "Maithri", 132, Cathedral Road, Chennai-600 086. The extracts of the main objects are briefly set out in paragraph No. 5 of the petition.

(b) The Board of Directors of the Transferee company have, at its meeting held on 20.5.2014 approved and adopted a Scheme of Amalgamation and the Board''s Resolution is filed as Annexure-3. The transferee company has eight secured creditors as on 31.7.2014. The auditor''s certificate to that effect was filed as Annexure-6. The consent letters of the secured creditors are annexed as Annexure-7. The petitioner is in the process of obtaining letter of consent from IDBI Bank Limited, one of its secured creditors for the Scheme of Amalgamation.

(c) The number of Equity Shareholders in the Transferee company as on 22.8.2014 is 3829.

(d) By an order dated 09.09.2014 in C.A. No. 876 of 2014 the Transferee Company was directed by this Court to convene the meeting of its Equity Shareholders for the purpose of considering and approving the Scheme of Amalgamation. Paper publication was also directed for the said purpose.

(e) In the meeting held on 12.11.2014 the equity shareholders of the Transferee Company have not objected for framing the scheme of amalgamation. A copy of the Chairman''s Report and Affidavit are filed as Annexure-4.

Thus, setting out those facts, the present C.P.387 of 2014 was taken out by the Transferee company.

5. The Official Liquidator has filed his report along with the report of the Chartered Accountant. The report of the chartered accountant states that the affairs of the transferor company have not been conducted in a manner prejudicial to the interest of its members or creditors or to public interest and they do not come across any act of misfeasance by the Directors, attracting the provisions of Sections 542 and 543 of the Companies Act, 1956.

6. Affidavit was filed by the Regional Director, Ministry of Corporate Affairs, Chennai on behalf of the Central Government, wherein it is stated that the scheme protects the interest of all the employees of the undertaking in service of the transferor company. Paragraph Nos. 5 and 6 of the said affidavit are re-produced here under:-

"5. It is respectfully submitted that as per para 13 of the Scheme provides that all staff and employees of the Transferor Company in the service on such date shall be deemed to have become staff and employees of the Transferee Company without any break in their service.

6. It is respectfully submitted that as per para 15 of the scheme, the Transferor company is dissolved without winding up."

7. In view of the above facts and circumstances, I am of the considered view that there is no objectionable feature detrimental to the interest of the employees of the Transferor Company or of the Transferee Company. Further, the scheme is not violative of any statutory provisions or against any public policy or public interest. That apart, no proceedings are pending under Sections 235 to 251 of the Companies Act, 1956. Further, all the statutory provisions have been

complied with.

8. In fine, there shall be an order of approving the scheme of amalgamation of the Transferor Company viz., Kar Mobiles Limited, with the Transferee Company, viz., Rane Engine Valve Limited, with effect from 1.04.2014 as the procedure laid down under Sections 391 and 394 of the Companies Act were duly complied with. Accordingly, the petitions shall stand allowed. The Transferor Company shall stand dissolved without winding up. A sum of Rs. 5000/- (Rupees five thousand only) is ordered to be payable by both the Transferor Company and Transferee Company to Mr. M. Gopikrishnan, learned Additional Central Government Standing Counsel.

