

(2012) 08 DEL CK 0244

In the Delhi High Court

Case No : Company Petition No. 268 of 2012

In Re: Kathuria Special Steels Rolling Mill Private Limited With Synergy Global Steel Private Limited

Date of Decision : 31-08-2012

Acts Referred:

Companies Act, 1956 — Section 235, 251, 391, 394

Citation : (2012) 08 DEL CK 0244

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : U.K. Singhal and Anup Gupta, Mr. Pradhan, Dy. Registrar on Behalf of Regional Director NR and Mr. Rajeev Bahl, for Official Liquidator, for the Appellant;

Final Decision : Allowed

Judgement

Indermeet Kaur, J.—This joint Petition has been filed under Sections 391 & 394 of the Companies Act, 1956 by the Petitioner Companies seeking sanction to the Scheme of Amalgamation of Kathuria Special Steels Rolling Mill Private Limited, Petitioner/ Transferor Company with Synergy Global Steel Private Limited, Petitioner/Transferee Company. The registered offices of the Petitioner Companies are situated at Delhi, within the jurisdiction of this Court.

2. Details with regard to the date of the incorporation of Petitioner Companies, their authorized, issued, subscribed and paid up capital have been given in the Petition.

3. Copies of the Memorandum and Articles of Association as well as the latest audited Annual Accounts for the year ended 31st March, 2011 of the Petitioner Companies have also been enclosed with the Petition.

4. Copies of the Resolutions passed by the Board of Directors of the Petitioner Companies approving the Scheme of Amalgamation have also been placed on record.

5. It has been submitted that no proceedings under Sections 235 to 251 of the

Companies Act, 1956 is pending against the Petitioner Companies.

6. The Petitioner Companies had earlier filed CO. APPL. (M) 79 of 2012 seeking directions of this Court for dispensation/ convening of meetings. Vide order dated 4th May, 2012, this Court allowed the Application and the requirement of convening the meetings of Shareholders and Creditors of the Transferor Company as well as of the Transferee Company were dispensed with.

7. The Petitioner Companies had thereafter filed the present Petition seeking sanction to the Scheme of Amalgamation. Vide order dated 29th May, 2012, notice of the Petition was directed to be issued to the Regional Director, Northern Region and the Official Liquidator attached with this Court. Citations were also directed to be published in "The Indian Express" in English and "Navbharat Times" in Hindi. The same were duly published in "The Indian Express" in English on 30th June, 2012 and "Navbharat Times" in Hindi Edition on 30th June, 2012 as per the Orders of the Court. Affidavit of Service and Publication has been filed by the Petitioners showing compliances regarding service of the Petition on the Regional Director, Northern Region and the Official Liquidator, Delhi and also regarding publication of citations in the aforesaid newspaper. Copies of the newspaper cuttings, in original, containing the publications have also been filed along with the Affidavit of Service.

8. In response to the notice issued in the Petition, Mr. Rakesh Chandra, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his Affidavit/ Representation dated 14th August, 2012. Relying on the Scheme of Amalgamation, he has stated that, upon sanction of the Scheme, all the employees of the Transferor entity shall become the employees of the Transferee Company without any break or interruption in their services. The Learned Regional Director has made one minor observation that in the Transferor Company i.e. Kathuria Special Steel Rolling Mills Pvt. Ltd, the valuer at the time of calculating the share exchange ratio has taken the share application money given as the Investment whereas the same should have been shown as the current assets as per Schedule VI. The Petitioners vide their Affidavit dated 29th August, 2012 has submitted that the same does not affect the financial position and valuation of the Transferor Company and it does not affect the scheme of amalgamation.

9. No Objection has been received to the Scheme of Amalgamation from any other party. Mr. Subhash Chander Kathuria, Director of the Petitioner Companies has filed an affidavit confirming that neither the Petitioner Companies nor their Counsel has received any objection pursuant to citation published in the newspapers.

10. In view of the approval accorded by the Shareholders and creditors of the Petitioner Companies, representation filed by the Regional Director, Northern Region and no objection by the Official Liquidator to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of Sanction to

the Scheme of Amalgamation. Consequently, Sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The Petitioner Companies will comply with the statutory requirements in accordance with law. Certified Copy of the formal order be filed with the Registrar of Companies within 30 days from the date of receipt of the same. In terms of the provisions of Sections 391 & 394 of the Companies Act, 1956, all the property, rights and powers of the Transferor Company be transferred to and vest in the Transferee Company without any further act or deed. Similarly, all the liabilities and duties of the Transferor Company be transferred to the Transferee Company without any further act or deed. It is, however clarified that this order will not be construed as an order granting exemption from payment of stamp duty or any other charges, if payable, in accordance with any law, or permission/compliance with any other requirement which may be specifically required under any law.

11. The Petitioner Companies would voluntary deposit a sum of Rs. 1,00,000/- in the Common Pool Fund of the Official Liquidator within three weeks from today. The Petition is allowed in the above terms.

Order Dasti.