

(2013) 04 GUJ CK 0074

In the Gujarat High Court

Case No : Company Application No. 115 of 2013

In Re: Metro Wireless Engineering India Private Limited

Date of Decision : 25-04-2013

Acts Referred:

Companies Act, 1956 — Section 391, 392, 393, 393, 394

Citation : (2013) 04 GUJ CK 0074

Hon'ble Judges : R.M. Chhaya, J

Bench : Single Bench

Advocate : Swati Soparkar, No. 1, for the Appellant;

Judgement

R.M. Chhaya, J.—This is an application of the abovenamed Transferor Company by summons dated 20th April 2013, filed under Sections

391 to 394 of the Companies Act, 1956 in the matter of a Scheme of Amalgamation of Metro Wireless Engineering India Private Limited, the

applicant Transferor Company with Metro Telworks Private Limited, the Transferee Company. I have heard Smt. Swati Soparkar, learned

advocate for the applicant Company and have considered the affidavit dated 17th April 2013 filed in support of the Judges' summons for

directions and other relevant annexures attached in support of the contents of the affidavit filed by the deponent, (Exhibit "C being a copy of the

proposed Scheme of Amalgamation). It has been pointed out that all the Equity Shareholders and Preference Shareholders of the applicant

Company, being the holding Company and its nominee, have given their approval to the scheme in form of the consent letters. These consent

letters are placed on record respectively as Annex. "D-1 " and "D-2" to the application. The certificates from a Chartered Accountant confirming

the status of the Equity as well as Preference Shareholders as well as receipt of the written consents from all of them is placed on record as Annex.

"E" to the said application. In view of the same, the dispensation of the meetings of the Equity Shareholders and Preference Shareholders is sought

and the same is hereby granted.

2. However, the applicant Transferor Company has sought directions for convening separate meetings of Secured Creditors and Unsecured

Creditors of the applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed

Scheme of Amalgamation of Metro Wireless Engineering India Private Limited, the applicant Transferor Company with Metro Telworks Private

Limited, the Transferee Company as proposed between the applicant Company and its creditors.

IT IS ORDERED:

3. That separate meetings of the Secured Creditors and Unsecured Creditors of the applicant Company shall be convened and held at the

registered office of the applicant Company at A4 & A5, Safal Profitaire, Corporate Road, Opp. AUDA Garden, Prahaladnagar, Ahmedabad-

380015, in the State of Gujarat on Thursday, the 6th day of June 2013 respectively at 11.00 a.m. and 12.30 in the afternoon, for the purpose of

considering and if thought fit, approving with or without modifications, the proposed Scheme of Amalgamation of Metro Wireless Engineering India

Private Limited, the applicant Transferor Company with Metro Telworks Private Limited, as proposed between the Company and its Creditors.

4. That at least 21 clear days before the meetings to be held as aforesaid, Notice convening the said meetings, indicating the day, the date, the

place and the time as aforesaid, together with a copy of the Scheme of Arrangement, copy of the Explanatory Statement required to be sent u/s

393 of Companies Act, 1956 and the prescribed Form of Proxy shall be sent by a prepaid letter posted under Book Post, addressed to each of

the Secured Creditors and Unsecured Creditors of the applicant Company, at their last known address. The lists of Secured and Unsecured

Creditors with their names and addresses shall be placed on record by the applicant Company. A certificate shall be obtained from the Postal

Department confirming the total number of dispatches so made.

5. That at least 21 clear days before the meeting to be held as aforesaid, Notice convening the said meetings indicating the day, the date, the place

and time as aforesaid be published, stating that copies of the Scheme of Amalgamation, the Explanatory Statement required to be furnished

pursuant to Section 393 of the Companies Act, 1956 and Form of Proxy can be obtained free of charge at the Registered Office of the applicant

Company and/or at its Advocate's office i.e. 301, Shivalik-10, Opp. SBI Zonal Office, S.M. Road, Ambavadi, Ahmedabad 380015 once each in

the Indian Express, English daily and Jansatta, Gujarati daily (both Ahmedabad editions).

6. Mr. Bharat Shah, the Director of the applicant Company, and failing him Mr. Asit Shah, Director of the applicant Company shall be the

Chairman of the aforesaid meetings to be held on 6th June 2013 and in respect of any adjournment or adjournments thereof.

7. That the Chairman appointed for the aforesaid meetings do issue advertisements and sent out notices of the said meetings referred to above. It is

further directed that the Chairman of the meetings shall have all powers under the Articles of Association of the applicant Company and under the

Companies (Court) Rules, 1959 in relation to conduct of meetings, including an adjournment of the meetings, and/or an amendment to the Scheme

or resolution, if any, proposed at the meetings by any person(s) and to ascertain the decision of the meeting on a poll.

8. That the quorum for the said meeting of Secured Creditors shall be 2 (two) and for the meeting of Unsecured Creditors shall be 10 (ten) of the

Unsecured Creditors, present in person, through authorized representative or through proxy.

9. That 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 meetings, or by his authorised representative, is filed with the applicant Company at its registered office at Ahmedabad, not later than 48

hours before the said meeting.

10. That the value of the vote of each Creditor of the Company shall be as per the entries in the books of accounts of the Company and where the

entries in the books are disputed, the Chairman of the meetings shall determine the value of debt for the purposes of the meeting and his decision in

that behalf would be final.

11. That the Chairman do report to this Court, the result of the said meetings

within 14 days of the conclusion of the meeting and the said report shall be verified by his affidavit. The application is hereby disposed of.