(2012) 07 DEL CK 0409

In the Delhi High Court

Case No : Co. App. (M) No. 99 of 2012 and Co. App. No. 1111 of 2012

In Re: M/s. Rexcel Pharmaceuticals Ltd. and Others

Date of Decision : 04-07-2012

Acts Referred:
Companies Act, 1956 — Section 391, 392, 393, 394

Citation : (2012) 07 DEL CK 0409

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Amit Sibbal, Mr. Amit Mishra and Mr. Sidharth Dutta, for the Appellant;

Final Decision : Allowed

Judgement

Indermeet Kaur, J.—In these company applications under Sections 391-394 of the Companies Act, 1956 (for short the ''Act''), duly supported by affidavits, the applicant companies seek dispensation of the meetings of their shareholders and creditors for sanctioning of the Scheme of Amalgamation at annexure A. The main objections of the applicant-transferor companies No. 1, 2 and 3 are detailed in the respective Memorandum and Articles of Association annexed with this application at annexure B, D and F respectively.

2. It is averred that the transferor companies 1, 2 and 3 are incorporated under the provisions of the Companies Act, 1956 and their registered officers are in New Delhi, duly registered with the Registrar of Companies at New Delhi. The registered officers of the other two transferor companies No. 4 and 5 and that of the transferee company are situated in Mohali and are duly registered with the Registrar of Companies at Chandigarh.

3. The Board of Directors of Rexcel Pharmaceuticals Limited (applicant company No.1/transferor company No. 1), Solus Pharmaceuticals Limited (applicant company No.2/transferor company No. 2) and Ranbaxy Drugs and Chemicals Company (applicant company No.3/transferor company No. 3) have approved the scheme of amalgamation in their respective board meetings held on 12.03.2012, vide resolutions at annexure K1, K2 and K3 respectively.

4. That applicant company No. 1/transferor company No. 1 has seven equity shareholders as is evident from the list of shareholders annexed as annexure L-1 with the application and all of them have consented to the scheme of amalgamation, vide consent letter at annexure L-2. It is averred in para 1 of the application that there are no secured and unsecured creditors of the applicant company No. 1/transferor company No. 1 and to this effect a certificate of the Chartered Accountant is annexed at annexure M.

5. The applicant company No. 2/transferor company No. 2 has seven equity shareholders as is evident from the list of shareholders annexed as annexure N with the application and all of them have consented to the scheme of amalgamation, vide consent letter at annexure N-2. It is averred in para 1 of the application that there are no secured and unsecured creditors and only one unsecured creditor of the applicant company No. 2/transferor company No. 2 and to this effect a certificate of the Chartered Accountant is annexed at annexure O. The unsecured creditor for applicant company No. 2/transferor company No. 2 has given its consent to the scheme of amalgamation vide consent letter at annexure P.

6. The applicant company No. 3/transferor company No. 3 has seven equity shareholders as is evident from the list of shareholders annexed as annexure Q-1 with the application and all of them have consented to the scheme of amalgamation, vide consent letter at annexure Q-2. It is averred in para 1 of the application that there are no secured and unsecured creditors and to this effect a certificate of the Chartered Accountant is annexed at annexure R.

7. It is averred by the learned counsel of the applicant/transferor companies No. 1, 2 and 3 that the scheme of amalgamation would, inter-alia, have the benefits of increasing efficiency by pooling of resources and their optimum utilization, thereby consolidating shareholding and availing synergies from combined resources and will enable the company concerned to rationalize and streamline their management, business and finances and the business will be carried on more economically and profitably after the proposed amalgamation.

8. The learned counsel of the applicant/transferor companies No. 1, 2 and 3 also informed this court during the arguments that the Hon''ble Punjab & Haryana High Court has vide its order dated May 31, 2012 in Company Petition No. 57 of 2012 allowed the first motion filed by the transferor companies No. 4 and 5 that of the transferee company. A copy of the order dated May 31, 2012 is placed on record.

9. In this view of the matter, convening of the meetings of the equity shareholders of the petitioner-transferor companies No. 1, 2 and 3 are ordered to be dispensed with. As there are no secured creditors of petitioner-transferor companies No. 1, 2 and 3, the requirement of convening of their meetings does not arise. As there are no un-secured creditors of petitioner-transferor companies No. 1 and 3, the requirement of convening of their meetings also does not arise.

As regards, un-secured creditors of petitioner-transferor company No. 2 is concerned, the consent of the only un-secured creditor is filed and placed on record, therefore, the convening of the meeting of the unsecured creditor of petitioner-transferor company No. 2 is dispensed with.

10. The company application No. 1111 of 2012 is allowed as prayed. The First Motion Company Application (M) No. 99 of 2012 is allowed as prayed and stands disposed off accordingly. Order dasti.

