

(2003) 04 AP CK 0114

In the Andhra Pradesh High Court

Case No : Company Petition No. 1 of 2003

In Re: Nebula Motors Ltd.

Date of Decision : 23-04-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 17, 18
Companies Act, 1956 — Section 391, 394

Citation : (2003) 5 ALD 327 : (2003) 45 SCL 143

Hon'ble Judges : T. Ch. Surya Rao, J

Bench : Single Bench

Advocate : S. Suresh and V.S. Raju, for the Appellant;

Judgement

T. Ch. Surya Roa, J.—The petitioner-company seeks sanction of the scheme of amalgamation u/s 394, read with Section 391 of the Companies Act, 1956 ("the Act" for brevity).

2. The facts lie in a narrow compass. The petitioner-company is the transferor company. It was incorporated on 13-4-2000 in the name of Jasper Motors PCD (Hyd.) Limited. Subsequently the name was changed to Nebula Motors Limited. The Registered Office of the company is at Hyderabad. The authorised share capital of the petitioner-company as on 31-3-2002 was 80 lakhs equity shares of Rs. 10 each. The issued, subscribed and paid-up share capital by that date was 77,05,070 equity shares of Rs. 10 each. The petitioner-company is a 100 per cent subsidiary of the Concorde Motors Limited transferee-company herein. The object for which it was incorporated is to buy, sell, stock, display, deal in and dispose of all types of motor vehicles and its accessories and also to take dealership and agencies therefor. The audited financial summary of the company as on 31-3-2002 has been annexed to the petition, which shows the financial viability of the company.

3. The transferee company was incorporated on 14-7-1997 and later it became a public limited company with effect from 9-3-1998. Its Registered Office is at New Delhi. The companies authorised share capital is 18,90,00,000 equity shares of Rs. 10 each. The issued, subscribed and paid-up share capital is 18,90,00,000

equity shares of Rs. 10 each fully paid-up. The audited financial summary of the company as on 30-9-2002 has been annexed to the petition showing the financial viability of the company. The main object of the company for which it has been incorporated is to buy, sell, stock, display, deal in and dispose of all types of motor vehicles and also to take dealership and agencies therefor.

4. It is discernible from the record that the transferee company is the holding company whereas the transferor company is its wholly owned subsidiary company. Both these companies are under the same management and have been engaged in similar line of operation by selling vehicles being manufactured by Tata Engineering and Locomotive Limited. Therefore the management is of the view that the merger of these two companies would create synergies in operations and reduction in common costs and that the transferee company further would be in a position to provide service directly to its customers than through a subsidiary. In that view, the merger would likely to benefit the transferee company in terms of pooling of financial resources, managerial, technical, distribution and marketing expertise and cash flows of both the companies. The combined resources would be conducive to enhance the capability to face the competition in the market. Therefore, the proposed amalgamation would be beneficial and advantageous to the customers, creditors and shareholders.

5. The Board of Directors of the petitioner company passed a resolution on 9-10-2002 in favour of the amalgamation. The scheme envisages with effect from the appointed date the transfer of the entire business of the petitioner-company including all its properties and assets, both movable and immovable, tangible and intangible in favour of the transferee company. On the scheme being effective, the transferor company shall be dissolved without winding up. Since the transferee company is wholly owned subsidiary of the transferee company its entire share capital is held by the transferee company and its nominees and, therefore, there would be no issue of equity shares to the shareholders of the transferor company.

By an order dated 26-12-2002, the High Court of Andhra Pradesh dispensed with the meeting of the unsecured creditors of the petitioner company in C.A. No. 1019 of 2002. Pursuant to the direction of the Court, notices have been served on the Central Government and on the Official Liquidator attached to the High Court of Andhra Pradesh. Publication in the Newspapers in English and Vernacular languages has been effected pursuant to the direction of the Court and no objections whatsoever have been received in response thereto.

6. The Official Liquidator attached to the Court filed his report mentioning inter alia that the scheme is in no way prejudicial to the public interest.

7. The Registrar of Companies in his affidavit inter alia, however, mentioned that since the transferor company is at Hyderabad and transferee company is at New Delhi, the scheme shall have to be sanctioned by both the High Courts at

Hyderabad and Delhi; and that the transferee company has not filed any such application.

8. It is obvious that the transferor company is 100 per cent subsidiary of the transferee company which is the holding company. The audit reports of both the companies disclose their financial viability. They are engaged in the self-same business of selling the motor vehicles and dealing mostly the motor vehicles being manufactured by TELCO. In that view of the matter, amalgamation of both the companies would result in the reduction of the expenditure and costs apart from the proposed increase in efficiency. The affidavits of the shareholders of the transferee company and its secured creditors have been filed who have expressed no objection to the proposed scheme of the amalgamation. Having regard to the above factual matrix, there seems to be no tenable objection for according necessary sanction to the scheme of amalgamation. The only point that need be noticed and in fact raised by the Registrar of Companies in his affidavit inter alia is that the transferee company has not filed a similar application seeking sanction of the scheme before the Delhi High Court within whose territorial limits the company is situate. It may be mentioned here that in para 16 of the petition it is averred that the transferee company having regard to the facts and circumstances has been advised not to file any separate petition since it is not necessary.

9. The only point, therefore, that arises for my determination in this Company Petition is as to whether it is necessary for the transferee company to seek the sanction of the scheme from the appropriate High Court?

10. Having regard to the question germane for consideration, it is appropriate here to consider Sections 391 and 394 of the Act. Section 391 of the Act reads as under :

"Power to compromise or make arrangements with creditors and members.--(1) Where a compromise or arrangement is proposed-

(a) between a company and its creditors or any class of them; or

(b) between a company and its members or any class of them;

the Court may, on the application of the company or of any creditor or member of the company, or, in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs.

(2) If a majority in number representing three-fourths in value of the creditors, or class of creditors, or members, or class of members, as the case may be, present and voting either in person or, where proxies are allowed under the rules made u/s 643, by proxy, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors, all the creditors of the class, all the members, or

all the members of the class, as the case may be, and also on the company, or, in the case of a company which is being wound up on the liquidator and contributories of the company:

Provided that no order sanctioning any compromise or arrangement shall be made by the Court unless the Court is satisfied that the company or any other person by whom an application has been made under Sub-section (1) has disclosed to the Court, by affidavit or otherwise, all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company, the pendency of any investigation proceedings in relation to the company under Sections 235 - 251, and the like.

(3) An order made by the Court under Sub-section (2) shall have no effect until a certified copy of the order has been filed with the Registrar.

(4) A copy of every such order shall be annexed to every copy of the memorandum of the company issued after the certified copy of the order has been filed as aforesaid, or in the case of a company not having a memorandum, to every copy so issued of the instrument constituting or defining the constitution of the company.

(5) If default is made in complying with Sub-section (4), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to ten rupees for each copy in respect of which default is made.

(6) The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as the Court thinks fit, until the application is finally disposed of.

(7) An appeal shall lie from any order made by a Court exercising original jurisdiction under this section to the Court empowered to hear appeals from the decisions of that Court, or if more than one Court is so empowered, to the Court of inferior jurisdiction.

The provisions of Sub-sections (3) to (6) shall apply in relation to the appellate order and the appeal as they apply in relation to the original order and the application."

A perusal of the said provision shows that on an application filed by the company whereunder a compromise or arrangement has been proposed between a company and its creditors or any class of them; or between a company and its members or any class of them; where the proposal involves winding up of the company, the Court may order meeting of the creditors or class of creditors; or of the members or class of members; as the case may be, and if a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or through proxy at the meeting agree to such compromise or

arrangement, then if such a scheme is sanctioned by the Court, it would be binding upon the members and the creditors. For that, the company is required to place before the Court latest financial position of the company, the latest auditor's report on the accounts of the company, the pendency of any investigation proceedings in relation to the company and the like. Therefore, what is required to be seen is that a meeting of the creditors or any class of them has been convened and a meeting of the members or any class of them has also been convened and in both the meetings the majority in number representing, three-fourths in value, present either in person or through proxy have voted in favour of the scheme or arrangement as the case may be. The Court may dispense with such a meeting provided it is convinced with reference to be other material placed before it that a compromise or arrangement has been consented to by the creditors or any class of them or by the members or any class of them.

Section 394 of the Act reads as under :

"Provisions for facilitating reconstruction and amalgamation of companies.--(1) Where an application is made to the Court u/s 391 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court-

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies; and

(b) that under the scheme the whole or any part of the undertaking, property or liabilities of any company concerned in the scheme (in this section referred to as a "transferor company") is to be transferred to another company (in this section referred to as "the transferee company");

the Court may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters :--

(i) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of any transferor company;

(ii) the allotment or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person;

(iii) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(iv) the dissolution, without winding-up, of any transferor-company;

(v) the provision to be made for any persons who, within such time and in such manner as the Court directs, dissent from the compromise or arrangement; and

(vi) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out:

Provided that no compromise or arrangement proposed for the purposes of, or in connection with, a scheme for the amalgamation of a company, which is being wound-up, with any other company or companies, shall be sanctioned by the Court unless the Court has received a report from the Company Law Board or the Registrar that the affairs of the company have not been conducted in a manner prejudicial to the interests of its members or to public interest:

Provided further that no order for the dissolution of any transferor company under Clause (iv) shall be made by the Court unless the Official Liquidator has, no scrutiny of the books and papers of the company, made a report to the Court that the affairs of the company have not been conducted in a manner prejudicial to the interests of its members or to public interest.

(2) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee company; and in the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.

(3) Within thirty days after the making of an order under this section, every company in relation to which the order is made shall cause a certified copy thereof to be filed with the Registrar for registration.

If default is made in complying with this sub-section, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to fifty rupees.

(4) In this section-

(a) "property" includes property, rights and powers of every description; and "liabilities" includes duties of every description; and

(b) "transferee company" does not include any company other than a company within the meaning of this Act; but "transferor company" includes any body corporate, whether a company within the meaning of this Act or not."

11. A perusal of the said provision shows that where the application is filed before the Court for its sanction of an arrangement proposed between the transferor company and the transferee company and from the arrangement if it is shown that the scheme for the amalgamation of any two or more companies and the properties or liabilities of any company concerned with the scheme are to be transferred. The Company Court in its order make a provision for the transfer of the properties or liability from the transferor company to the transferee company; for the allotment or appropriation by the transferee

company of any shares, debentures, policies, or other like interests; for the continuation of legal proceedings pending by or against the transferor company; for the dissolution without winding up of any transferor company; and such incidental or consequential and supplemental matters that are necessary for the reconstruction of the amalgamation of the companies. Under the two provisos incorporated under Sub-section (1), conditions have been set forth for the consideration of the Court for sanctioning such a scheme, namely, that such a scheme for amalgamation of a company which is being wound up shall not be sanctioned until and unless the Court has received a report from the Company Law Board or the Registrar to the effect that the affairs of the company have not been conducted in a manner prejudicial to the interest of its members or to public interest; and until and unless the Official Liquidator has made a report to the Court that the affairs of the company have not been conducted in a manner prejudicial to the interest of its members or to public interest. No other conditions have been set forth except the two referred to supra for the consideration of the Court before sanctioning the scheme. If those two conditions are satisfied from a perusal of the reports filed by the Registrar of companies and the Official Liquidator, the scheme shall have to be automatically sanctioned. Nothing in this section which shows that an application is got to be made by the transferor company as well as the transferee company separately having regard to the fact that the proposed scheme shall not be prejudicial to the interests of the members of the company or to public interest.

12. The Court is required to see whether the proposed scheme is in the interests of the members of each of the companies involved in the scheme. Whether each one of the companies involved in the scheme shall have to file separate application; or whether both the companies can file a single application is a matter of practice. But then a piquant question arises where the companies involved in the scheme are situate within the territorial limits of more than one Court. In other words, the transferor company is situate within the territorial limits of one Court and the transferee company is situate within the territorial limits of another Court. As by now, we have understood that it requires the sanction for both the Courts inasmuch as it is got to be seen that the scheme is not in any manner prejudicial to the interests of the members of both the transferor and the transferee companies. Is it not permissible in such circumstances where both the companies can file single application before one of the two Courts which have territorial jurisdiction? The Act is silent on this aspect. There is no provision unlike in Sections 17 and 18 of the Code of Civil Procedure. The CPC provides for filing of the suit before one of the two Courts having territorial jurisdiction over the subject-matter of the suit or where the territorial limits are uncertain. Such provision will not only facilitate the smooth administration of the matter, nay in my considered view would avoid any conflicting views. Considering the hypothetical question where having regard to the scheme which shall invariably be one and the same for the transferor company and the transferee company, one Court may be convinced that the

scheme is not in any manner prejudicial to the interests of its members or to public interest, and the other Court may not be convinced that it is so; or the fact situation may not warrant such a uniform conclusion. Either way, two conflicting decisions would be rendered and the scheme cannot be pushed through. Such a contingency could be avoided if one Court is approached. The fact situation may not warrant the sanction of the scheme either in the point of view of the transferor company or in the point of view of the transferee company and, therefore, the scheme cannot be sanctioned is an altogether different question. But, certainly if one Court is approached, there cannot be any conflicting views. Anyway, as has been discussed hereinabove already, the Act is silent on this aspect and the rules too framed under the Act have not provided for any provision in that regard. The practice appears to be filing two different applications before the Courts having territorial jurisdiction in respect of transferor company as well as the transferee company. It is for the parliament to consider and make necessary provision in this regard.

A combined reading of both the provisions, namely, Sections 391 and 394 of the Act, shows that the Court is required to consider in the first instance where the compromise or arrangement has been consented to by the members of the company and its creditors and then the Court is required to consider that the proposed scheme or arrangement is not in any manner prejudicial to the interests of its members or to public interest.

13. In *Miheer H. Mafatlal v. Mafatlal Industries Ltd.* [1996] 87 Comp. Cas. 792, 10 SCL70. The Apex Court has laid down the broad contours of the jurisdiction of the company Court in the matter of scheme of amalgamation. It was held thus :

"(1) The sanctioning Court has to see to it that all the requisite statutory procedure for supporting such a scheme has been complied with and that the requisite meetings as contemplated by Section 391(1)(a) have been held.

(2) That the scheme put up for sanction of the Court is backed up by the requisite majority vote as required by Section 391(2).

(3) That the concerned meetings of the creditors or members or any class of them had the relevant material to enable the voters to arrive at an informed decision for approving the scheme in question. That the majority decision of the concerned class of voters is just and fair to the class as a whole so as to legitimately bind even the dissenting members of the class.

(4) That all necessary material indicated by Section 393(1)(a) is placed before the voters at the concerned meetings as contemplated by Section 391(1).

(5) That all the requisite material contemplated by the proviso to Subsection (2) of Section 391 of the Act is placed before the Court by the concerned applicant seeking sanction for such a scheme and the Court gets satisfied about the same.

(6) That the proposed scheme of compromise and arrangement is not found to be violative of any provision of law and is not contrary to public policy. For

ascertaining the real purpose underlying the scheme with a view to be satisfied on this aspect, the Court, if necessary, can pierce the veil of apparent corporate purpose underlying the scheme and can judiciously x-ray the same.

(7) That the Company Court has also to satisfy itself that members or class of members or creditors or class of creditors, as the case may be, were acting bona fide and in good faith and were not coercing the minority in order to promote any interest adverse to that of the latter compromising the same class whom they purported to represent.

(8) That the scheme as a whole is also found to be just, fair and reasonable from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant.

(9) Once the aforesaid broad parameters about the requirements of a scheme for getting sanction of the Court are found to have been met, the Court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme even if in the view of the Court there could be a better scheme for the company and its members or creditors for whom the scheme is framed. The Court cannot refuse to sanction such a scheme on that ground as it would otherwise amount to the Court exercising appellate jurisdiction over the scheme rather than its supervisory jurisdiction." (p. 819)

14. It is mentioned in the petition that it is not necessary to file an application by the transferee company. The learned counsel appearing for the petitioner company seeks to place reliance upon a Judgment of the Bombay High Court in *Mahaamba Investments Ltd. v. IDI Ltd.* [2001] 105 Comp. Cas. 16, 33 SCL 383; a Judgment of the Delhi High Court *Sharat Hardware Industries (P.) Ltd., In re* [1978] 48 Comp. Cas. 23, a Judgment of the Bombay High Court in *Bank of India Ltd. v. Ahmedabad Mfg. & Calico Printing Co. Ltd.* [1972] 42 Comp. Cas. 211 and unreported Judgments of the Bombay High Court *Voltas International Ltd., In re*; and *Scheme of Amalgamation of Clique Holdings (P.) Ltd., In re*.

15. In the first case, a learned single Judge of the Bombay High Court was of the view that where the proposed amalgamation is in respect of holding and subsidiary companies and the subsidiary company is sought to be merged with the holding company and when the members of the creditors of the transferee company are not affected, the petition by transferee company is not necessary.

In the second case, the Delhi High Court was of the view that having regard to the fact that the transferee company had in a meeting of its shareholders agreed to and approved the scheme, it was not necessary for the transferee company to obtain approval of its creditors or subsequent sanction of the Court having jurisdiction over its place of registration for the scheme and the scheme did not affect the members or creditors of the transferee company.

16. In the third case, a learned single Judge of the Bombay High Court has

considered the crucial point as to whether both the companies should apply for sanction of the Court. On that crucial point it was held thus :

"Having regard to the fact that Sections 391 and 394 of the Companies Act make no distinction between a transferor company and a transferee company, the test for determining whether the provisions of those sections are attracted or not must be the same, both in the case of the transferor company as well as in the case of the transferee company, viz., whether as between the company and its members or creditor's, the proposed arrangement or compromise affects the rights of those members or creditors, or any class of them. In the case of the transfer of its undertaking, property and liabilities by one company to another, the transaction may or may not affect the rights of its members or creditors. If it does affect the rights of its members or creditors, either because it involved a reorganisation of its share capital or otherwise, it would certainly fall within the term "arrangement", and, in that event, proceedings by the transferee company in the appropriate court under Sections 391 and 394 would be necessary. It must follow that if a scheme by way of transfer of an undertaking does not affect the rights of the members or creditors of the transferee company, as between themselves and the company, or does not involve a reorganisation of the share capital of the transferee company, no application by the transferee company u/s 391 or 394 would be necessary." (p. 212)

Having regard to the facts in that case where the transferee company would be required to issue a new type of equity shares not issued by them, viz., 8 per cent convertible bonds of Rs. 100 and 8 per cent redeemable bonds of Rs. 116, the learned Judge was of the view that the scheme of transfer of the undertaking, properties and liability to the transferor company would necessarily affect the rights as between the transferee company and its members and creditors and in that view of the matter, the learned Judge sanctioned the scheme subject, however, to the sanction of the same from the appropriate High Courts by both the transferor company and the transferee company. It is obvious, therefore, that so long as the scheme does not affect the rights of the members of the transferee company or its creditors and it does not involve a reorganisation of the share capital of the transferee company, there is no need or necessity to file an application by the transferee company u/s 391 or 394 of the Act.

17. In the fourth Judgment, placing reliance upon the first Judgment referred to supra of the Bombay High Court, it was held that since the transferor company is 100 per cent subsidiary of the transferee company, there was no need to file a separate petition by the transferee company.

18. As regards the last Judgment, it was a case of subsidiary and holding companies.

19. Having regard to the scheme envisaged under Chapter V of the Act, the Company Court is required to see in the first instance whether the procedure envisaged under Sections 391 and 394 of the Act has been followed or not and

then to examine the scheme of amalgamation. The scheme would be the same invariably whereunder the proposed amalgamation of transferor company with the transferee company is contemplated. In the event of both the transferor company and the transferee company are coming within the territorial jurisdiction of two different High Courts and thereby necessitating both the companies to file separate petitions before the respective High Courts, both the Courts would be examining the self-same scheme. After such examination, both the Courts may agree or may differ on the aspect of sanctioning the scheme. The probable question is that it requires to be examined by the concerned High Court within whose territorial jurisdiction the transferee company is situate so as to ultimately consider whether sanction can be accorded or not and, therefore, the High Court in whose territorial jurisdiction the transferee company is situate cannot validly express its view that such an application need be filed before the High Court within whose territorial jurisdiction the transferee company is situate or not, is of no consequence inasmuch as the Court can examine the scheme and for the limited purpose of seeing whether the scheme in any way affects the interests of the members or creditors of the transferee company. For that limited purpose, in my considered view, the Court within whose territorial jurisdiction, the transferor company is situate can examine the scheme so as to see whether the transferee company also needs to file a similar such application. Perhaps, the considerations may be the same for the Court in whose territorial jurisdiction the transferee company is situate and having regard to the same ultimately that Court may sanction or may refuse to sanction the scheme but that is altogether a different aspect. For that limited purpose of seeing that such an application need be filed or not, the transferee company can certainly examine the scheme and come to the conclusion.

20. Having regard to the parameters enunciated by the Apex Court in *Miheer H. Mafatlal's* case (supra) the sanctioning Court has to consider that the scheme put up for sanction is backed up by the requisite majority vote as required by Section 391(2) of the Act; and that the said scheme is not violative of any provision of law and is not contrary to public policy; and that the members or creditors of the company have acted bona fide and in good faith and have not coerced the minority in order to promote any interest adverse to the minority; apart from the indicia laid down by the Apex Court as to whether the scheme does affect the members or its creditors either because it involves reorganisation of the share capital or otherwise as laid down by the Bombay High Court in *Bank of India Ltd. 's* case (supra). For examining any of these parameters, the facts of the case and the proposed scheme of amalgamation are got to be seen. It is no doubt true that whether the rights of the members or any class of them or the creditors or any class of them of the transferee company would in any way be affected under the proposed scheme, has to be seen by the sanctioning Court within whose territorial jurisdiction the transferee company is situate. However, on an examination of the scheme any of the two Courts in whose territorial jurisdiction the transferor company as well as the transferee company are situate

can consider whether the proposed scheme involves reorganisation of the share capital or otherwise. Well, in the proposed scheme, if such reorganisation of the share capital is not there and when the 100 per cent subsidiary company is seeking to amalgamate with its holding company where the scheme is not detrimental in any manner to the interests of the members or creditors of the transferee company, in my considered view, that there is no need to examine the scheme by the Court within whose territorial jurisdiction the transferee company is situate. In that view of the matter, the sanctioning Court which has been approached by the transferor company can just examine the scheme and see whether it does affect the rights of the members or creditors of the transferee company as it either because it involves reorganisation of its share capital or otherwise and in the process the Court can certainly come to the conclusion that whether it is a case where the application is got to be presented before the Court for sanctioning of the scheme insofar as the transferee company is concerned. Having regard to the same, I am of the considered view that it is not trenching upon the jurisdiction of any other Court by the sanctioning Court which has been approached by the transferor company and it is well within its purview.

Coming to the facts of the instant case, the scheme does not involve any reorganization or restructuring of the shares of the members of the transferee company. Therefore, the rights of the members of the transferee company have not been in any manner touched upon. It is nothing but the amalgamation of the subsidiary company with the holding company for the convenience of the business and for efficient administration. Therefore, for the reasons discussed hereinabove, there is no need for the transferee company to approach the Court for necessary sanction of the scheme.

21. In the result, the Company Petition is ordered. A certified copy of this order shall be filed before the Registrar of Companies within thirty (30) days from the date of receipt of the same for registration. The order of this Court shall be drafted in Form No. 42.