

(2014) 12 DEL CK 0376

In the Delhi High Court

Case No : Co. Appl. (M) No. 166/2014 and Co. Appl. No. 2866/2014

In Re: NIIT Limited and Others

Date of Decision : 19-12-2014

Acts Referred:

Companies Act, 1956 — Section 101(2), 235, 236, 237, 238

Citation : (2014) 12 DEL CK 0376

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Anirudh Das and Kamaljeet Singh, Advocates for the Appellant

Judgement

Sanjeev Sachdeva, J.

The office has raised an objection that the total number of Equity Shareholders of NIIT Limited is not known from the list as there is no serial number.

Learned Counsel for the Applicants submits that the total numbers of shareholders are 76,619. He submits that the list annexed with the application is the list as was uploaded by the depository which was downloaded by the Applicants.

Other office objection raised is that the nomenclature with regard to the first applicant is mentioned as the Amalgamated/Transferor Company whereas the second applicant is mentioned as Amalgamating Company No. 1.

Learned Counsel for the Applicants submits that the applicants Amalgamating Companies No. 1, 2 and 3 would first merge in the applicant Amalgamated/Transferor Company NIIT Limited and thereafter as per the scheme, the NIIT Limited would demerge with the School Business Undertaking in favour of the applicant Transferee Company.

In view of the above clarifications, the office objections are disposed of.

Co. Appl. (M) No. 166/2014

1. This is first motion joint Application under Sections 391 to 394 of the

Companies Act, 1956 ("Act") in connection with the Scheme of Arrangement ("Scheme") of NIIT Limited (hereinafter referred to as the Transferor Company), Evolv Services Limited (hereinafter referred to as the Amalgamating Company No. 1), Scantech Evaluation Services Limited (hereinafter referred to as the Amalgamating Company No. 2), NIIT Online Learning Limited (hereinafter referred to as the Amalgamating Company No. 3) with Hole-In-The-Wall Education Limited (hereinafter referred to as the Transferee Company) and their respective Shareholders and Creditors (hereinafter all Companies collectively referred to as Applicant Companies). A copy of the proposed Scheme has been enclosed along with the Application.

2. The registered offices of the Applicant Companies are situated within the National Capital Territory of Delhi, within the jurisdiction of this Court.

3. The details with regard to the date of incorporation of Applicant Companies, their Authorized, Issued, Subscribed and Paid up Capital have been set out in the present Application.

4. Copies of the Memorandum and Articles of Association as well as the latest Annual Accounts for the year ended 31st March 2014 of the Applicant Companies have also been enclosed with the present Application.

5. Learned Counsel for the Applicant Companies submits that no proceeding under sections 235 to 251 of the Act is pending against any of the Applicant Companies as on the date of the present Application.

6. The proposed Scheme has been approved by the Board of Directors of all the Applicant Companies. Copies of the Board Resolutions have been filed along with the present Application.

7. The status of the Shareholders, Secured and Un-secured Creditors of the Transferor and Transferee Companies and consents obtained from them is apparent from the chart given below:

8. In view of the above, a prayer has been made for (a) the dispensation from the requirement of convening the meeting of the Equity Shareholders of Amalgamating Companies No. 1 - 3 and the Transferee Company, (b) the dispensation from the requirement of convening the meeting of Preference Shareholder of the Transferee Company, (c) the dispensation from the requirement of convening the meeting of the Unsecured Creditors of the Amalgamating Company No. 1 and the Transferee Company and (d) to convene the meeting of the Shareholders, Secured Creditors, Unsecured Creditors of the Amalgamated/Transferor Company.

9. In view of the written consents/NOC obtained by all the Equity Shareholders of the Amalgamating Company No. 1, Amalgamating Company No. 2, Amalgamating Company No. 3 and Transferee Company, the requirement of convening meetings of the Equity Shareholders of Amalgamating Company No. 1, Amalgamating Company No. 2, Amalgamating Company No. 3 and Transferee

Company are dispensed with.

10. In view of the written consents/NOC obtained by the Preference Shareholder of the Transferee Company, the requirement of convening meetings of the Preference Shareholder of the Transferee Company is dispensed with.

11. Since there are no Secured Creditors of Amalgamating Company No. 1, Amalgamating Company No. 2, Amalgamating Company No. 3 and Transferee Company, therefore the requirement of convening meeting of Secured Creditors of Amalgamating Company No. 1, Amalgamating Company No. 2, Amalgamating Company No. 3 and Transferee Company does not arise.

12. Since there are no Unsecured Creditors of Amalgamating Company No. 2 and Amalgamating Company No. 3, therefore the requirement of convening meeting of Unsecured Creditors Amalgamating Company No. 2 and Amalgamating Company No. 3 does not arise.

13. In view of the written consents/NOC obtained from all the Unsecured Creditors of Amalgamating Company No. 1 and Transferee Company, the requirement of convening meetings of the Unsecured Creditors of Amalgamating Company No. 1 and Transferee Company are dispensed with.

14. Further, it is directed that the meeting of the Equity Shareholders of Amalgamated/Transferor Company shall be held on 31st January, 2015 at 10:00 AM at FICCI-1, Federation House, Tansen Marg, New Delhi-, under the supervision of this Court. Mr. Rajesh Banati, Advocate, Cell No. 9810294894 is appointed as the Chairperson and Ms. Sureksha Luthra, Cell No. 9910390944 is appointed as the Alternate Chairperson for the meeting of Equity Shareholders of Amalgamated/Transferor Company. They would be paid a fee of Rs. 50,000/- each. Mr. Subhash Thakur, Cell No. 9873155281, and Mr. Bharat Singh Rawat, Cell No. 9810455275, officials of this Court shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs. 10,000/- each for this purpose.

15. Further, it is directed that the meeting of the Secured Creditors of the Amalgamated/Transferor Company shall be held on 31st January, 2015 at 12:30 P.M FICCI-1, Federation House, Tansen Marg, New Delhi-110001, under the supervision of this Court. Ms. Reema Bhandari, Advocate, Cell No. 9810122726 is appointed as the Chairperson and Ms. Shruti Munjal, Advocate, Cell No. 9818080077 is appointed as the Alternate Chairperson for the meeting of Secured Creditors of Amalgamated/Transferor Company. They would be paid a fee of Rs. 50,000/- each. Ms. Sarika Verma, Cell No. 8800450137, and Mr. Vijender, Cell No. 9873404959, officials to this Court shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs. 10,000/- each for this purpose.

16. Further, it is directed that the meeting of the Unsecured Creditors of the Amalgamated/Transferor Company shall be held on 31st January, 2015 at 1:00

P.M at FICCI-1, Federation House, Tansen Marg, New Delhi- 110001, under the supervision of this Court. Ms. Megha Bharara, Advocate, Cell No. 9811455957 is appointed as the Chairperson and Ms. Sangamitra Sankaraiah, Advocate, Cell No. 9958384752 is appointed as the Alternate Chairperson for the meeting of Unsecured Creditors of Amalgamated/Transferor Company. They would be paid a fee of Rs.50,000/- each. Mr. Ram Niwas, Cell No. 9999814606, and Mr. Madan Dangi, Cell No. 8750585138, officials to this Court shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs. 10,000/- each for this purpose.

17. The Applicant/Transferor Company is also directed to publish notice of the aforesaid meetings in "The Indian Express" (English Edition) and "Jansatta" (Hindi Edition). The advertisements shall be minimum 21 days in advance before the scheduled date of the meetings.

18. Individual notice of the aforesaid proposed meeting of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Amalgamated/Transferor Company would be sent by ordinary post minimum 21 days in advance before the scheduled date of meeting. The Chairperson will ensure that dispatch is made under his /her supervision/or his Authorized Representative.

19. The quorum of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Amalgamated/Transferor Company is fixed as follows:

20. It is also directed that if the Quorum is not present in the meeting, the meeting would be adjourned for 30 minutes and thereafter, the persons present in the meeting, would be treated as quorum.

21. 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 meeting or by his authorized representative, is filed with the Transferee Company at its registered office, not later than 48 hours before the said meeting.

22. The Chairman/Alternate Chairman shall file their reports within two weeks of the conclusion of the said meeting.

23. The Application stand allowed in the aforesaid terms.

Co. Appl. No. 2866/2014

This is an application under Section 101(2) of the Companies Act seeking dispensation from following the procedure under Section 101(2) of the Act with regard to the reduction of share capital of the Transferee Company M/s. Hole-in-the-Wall Education Limited.

It is contended that on the Scheme being sanctioned, the shares would be simplicitor cancelled and there is no payment stipulated to any other shareholders and there is no writing off of any unpaid share capital. It is contended there are no Secured Creditors and there is only one Unsecured Creditors who has given the consent.

In view of the above, the application is allowed and disposed of.