

(2014) 07 DEL CK 0148
In the Delhi High Court
Case No : CO.PET. 200/2014

In Re: TSI Voyages Private Limited

Date of Decision : 17-07-2014

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2014) 07 DEL CK 0148

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Rishi Sood and Rajiv Bhel, Advocates, Atma Sah, Advocate for the Appellant

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J.—This second motion joint Petition has been filed under sections 391 to 394 of the Companies Act, 1956 ("ACT") seeking sanction to the Scheme of Amalgamation (Scheme) of TSI Voyages Private Ltd. (Transferor Company No. 1), TSI North East Travels Private Limited (Transferor Company No. 2), TSI Holidays Private Limited (Transferor Company No. 3), with TSI Yatra Private Limited (Transferee company) (Collectively referred as the Petitioner Companies). A copy of the Scheme has been enclosed with the petition.

2. The registered offices of the Petitioner Companies are situated at New Delhi, within the jurisdiction of this Court.

3. The details of respective dates of incorporation of the petitioner companies, their authorised, issued, subscribed and paid up capital have been set out in the petition.

4. The copies of the Memorandum and Articles of Association of the Petitioner Companies have been enclosed with the Petition.

5. The copies of resolutions passed by the Boards of Directors of the Petitioner Companies approving the scheme have also been filed along with the petition.

6. Learned counsel for the petitioner Companies submits that no proceedings

under sections 235 to 251 of the Companies Act, 1956 is pending against the Petitioner Companies.

7. The petitioner companies had earlier filed C.A. (M) No. 43 of 2012 seeking directions of this Court for dispensation of the meetings. Vide Order dated 10th March, 2014 this court allowed the application and dispensed with the requirement of convening meetings of Equity Shareholders, Secured and Unsecured Creditors of the Petitioner Companies.

8. The Petitioner Companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 31.03.2014, notice in the Petition was directed to be issued to the Regional Director, Northern Region and to the Official Liquidator. Citations were also directed to be published in "Business Standard" (English, Delhi Edition) and "Jansatta" (Hindi, Delhi Edition). Affidavit of service and publication has been filed by the petitioner Companies showing compliance regarding service of the petition on the Regional Director, Northern Region and to the Official Liquidator and also regarding Publication of Citations in the aforesaid News papers on 09.07.2014, copies of the news papers cuttings, in original, containing the publications have been filed with the affidavit of service.

9. In response to the notices issued, the Official Liquidator sought information from the Petitioner Company. Based on the information received the official liquidator has filed his report dated 14.07.2014 wherein he has stated that he has not received any complaint against the proposed Scheme from any person/ party interested in the Scheme in any manner and that the affairs of the Transferor companies do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or to public interest of its members, creditors or to public interest as per the 2nd Proviso of section 394(1) of the Act.

10. In response to the notices issued in the Petition, learned Regional Director, Northern Region, Ministry of Corporate Affairs has filed his affidavit/report dated 9th July, 2014. The Regional director has raised an objection to the fact that the Applicants/Transferor Companies have stated in the application that the applicants/Transferor Companies are wholly owned subsidiaries of the Transferee Company. The Transferee has not filed a separate application u/s 391-394 of the Companies Act, 1956.

11. In response to the said objection learned counsel for petitioner companies has relied on the decision of this court dated 02.05.2014 in M/s. CL Media Private Limited v. M/s. CL Educate Limited Co. Pet. No. 74/2014 wherein this court relying on the decisions in the case of Auto Tools India Pvt. Ltd. [Co. Appl. (M) No. 41 of 2010], In Re: Sharat Hardware Industries P. Ltd., , Mahaamba Investments Ltd. Vs. IDI Limited, , Andhra Bank Housing Finance Limited Vs. Andhra Bank, has laid down that where the entire issued, subscribed and paid up equity share capital of Transferor Company is held by Transferee Company

directly and the Transferor Company is a wholly owned subsidiary of the Transferee Company, the Transferee Company is not required to file a separate or joint application before this Hon'ble Court for sanction of the Scheme of Amalgamation. In view of the aforesaid the concerns of the Regional Director does not survive.

12. No objection has been received to the Scheme of Amalgamation from any other party, Mr. Sharat Harishchander Dhall, Director of the Petitioner Company No. 1, Ms. Sonia Mehta, Director of the Petitioner Company No. 2, Mr. Satwinder Singh Sodhi, Director of the Petitioner Company No. 3 has filed their affidavits dated 8th July, 2014 confirming that neither the petitioner companies nor their Legal Counsel has received any objection pursuant to the citations published in the Newspapers.

13. In view of the approval accorded by the Shareholders and Creditors of the petitioner Companies, representations/reports filed by the Regional Director, Northern Region and the official liquidator, attached with this court 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 Arrangement u/s 391 and 394 of the Companies Act, 1956. The petitioner companies shall comply with the statutory requirements in accordance with law.

14. Certified copy of the order be filed with the Registrar of Companies within 30 days from receipt of the same. In terms of the provisions of Section 391 and 394 of the Companies Act, 1956 and in terms of the Scheme, the whole or part of the undertaking, the property, rights and powers of the Transferor companies be transferred to and vest in the Transferee Company without any further act or deed. Similarly, in terms of the Scheme, all the liabilities and duties of the Transferor Companies be transferred to the Transferee company without any further act or deed. Upon the Scheme coming into effect, the Transferor Companies shall stand dissolved without winding up.

15. It is, however, clarified that this order will not be construed as an order granting exemption from payment of stamp duty or taxes 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.

16. Learned counsel for the petitioners states that the petitioner Companies (collectively) would voluntarily deposit a sum of Rs. 75,000/- in the Common Pool Fund of the Official Liquidator within three weeks from today. The statement is accepted.

17. The petition is allowed in the above terms.