(2020) 02 NCLT CK 0066

In the National Company Law Appellate Tribunal

Case No : CAA No. 01(ND) Of 2020 And Company Application (CAA) No. 175(ND) Of 2019

Kamlapati Infrastructure Limited And Ors — APPELLANT

Vs

KVS Castings Private Limited — RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 — Rule 15(1)
Companies Act, 2013 — Section 230, 230(4), 230(7), 231, 232, 232(3)

Citation : (2020) 02 NCLT CK 0066

Hon'ble Judges : Dr. Deepti Mukesh, J;Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : Rajeev K Goel, Ajay Garg, Praveen K Bharti, Kartikeya Goel, Pragya Hindol

Judgement

Dr. Deepti Mukesh, J

1. This petition for second motion is filed on 30.12.2019 under the provisions of Sections 230-232 of the Companies Act, 2013 read with Rule 15(1) of the Companies (Compromise, Arrangements, Amalgamation) Rules, 2016 for the Scheme of Arrangement (for brevity Scheme) praying for fixing a date of hearing of the Company Petition for approving the scheme of arrangement by way of amalgamation as well as for issuance of direction concerning publication of notices in press, to be carried and notices to be issued to the authorities concerned including regulators, if any.

2. From the records, it is seen that the First Motion application was filed before this Tribunal vide CA (CAA)- 175(ND)2019 under Sections 230-232 of the Companies Act, 2013 and vide order dated 18.12.2019 of this Tribunal, the meetings of Equity Shareholders and Unsecured Creditors of all the Petitioner Companies and the Secured Creditor of the Petitioner Company No. 5 were

dispensed with. In view of absence of any Secured Creditors from Petitioner Companies No. 1 to 4, the necessity of convening their respective meetings did not arise.

3. Taking into consideration the submissions made and documents placed on record, it is hereby ordered as follows:

(i) The date of hearing of the Petition filed by the Petitioners for the approval of the Scheme is fixed on 16th April 2020.

(ii) Notice of the hearing shall be advertised in the newspapers namely, "Business Standard" (English and Hindi Delhi edition) not less than 10 days before the aforesaid date fixed for hearing.

(iii) In addition to the public notice, each of the Petitioner(s) shall serve the notice of the Petition on the following Authorities namely, (a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs; (b) Registrar of Companies, NCT of Delhi & Haryana, Ministry of Corporate Affairs; (c) the Income Tax Department through the Income Tax Cell at DCIT (High Court Cell), Lawyer's Chamber, Block No. 1, Room No. 428 & 429, Delhi High Court, New Delhi, along with full details of assessing officer and PAN numbers of all the petitioner companies; (d) Official Liquidator and to such other Sectoral Regulatory Authorities who may govern the working of the respective companies involved in the Scheme at least 30 days before the date fixed for hearing of the above Petition.

(iv) Further, notices shall also be served to Objector(s) or to their representative, if any, as contemplated under Sub-Section (4) of Section 230 of the Act who may have made representation and who have desired to be heard in their representation along with a copy of the Petition and the Annexures filed therewith at least 15 days before the date fixed for hearing.

(v) All the Petitioners shall at least 7 days before the date of hearing of the Petition shall file an affidavit of service in relation to publication effected in the newspapers as well as service of notices on the Authorities specified above including the Sectoral regulator as well as to Objectors, if any.

(vi) Objections to the Scheme, if any, contemplated by the authorities, to whom notices have been given on or before the date fixed for hearing, may be filed, failing which it will be considered that there is no objection to the approval of the Scheme on the part of the authorities and subject to other conditions being satisfied as may be applicable under the Companies Act, 2013 and relevant rules framed there under.

(vii) Each Petitioner Company shall individually comply with proviso to sub section (3) of Section 232 or proviso to sub section (7) of Section 230, of the Act, 2013, as may be applicable under the circumstances on or before the date fixed for hearing by filing the certificate of statutory auditors of the petitioner companies.

(viii) The next date of hearing of the Petition shall be on 16th April 2020 for the consideration of the approval of the Scheme of Arrangement as contemplated between the Petitioner Companies.