

(2010) 10 DEL CK 0110

In the Delhi High Court

Case No : Company Application (M) No. 193 of 2010

L.K. India Private Limited and Schneider Electric Konzerv
India Private Limited

APPELLANT

Vs

Schneider Electric India Private Limited

RESPONDENT

Date of Decision : 18-10-2010

Acts Referred:

Companies Act, 1956 — Section 391, 394

Citation : (2010) 10 DEL CK 0110

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Suman Doval, Harpreet S. Nagpal and Sumit Babbar, for the Respondent

Judgement

Sanjiv Khanna, J.—This application under Sections 391 and 394 of the Companies Act, 1956 has been filed for amalgamation of M/s L.K. India Private Limited and M/s Schneider Electric Konzerv India Private Limited (hereinafter referred to as the transferor company No. 1 and the transferor company No. 2 respectively) and M/s Schneider Electric India Private Limited (hereinafter referred to as the transferee company).

2. The registered office of the two transferor companies and the transferee company are located in Delhi.

3. It is stated in the application that the transferor company Nos. 1 and 2 and the transferee company have two equity shareholders each. It is also stated that the transferor company No. 2 is subsidiary of the transferee company. The no objection certificates of the equity shareholders of the two transferor companies and the transferee company have been enclosed.

4. The applicants have enclosed certificates issued by Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts stating, inter alia, that they have examined the books of accounts and other relevant records of the two

transferor companies and the transferee company as on 31st July, 2010.

5. The transferee company has no secured creditor and has 1205 unsecured creditors to whom Rs. 14,400,828,581 is payable. The list of the said creditors have been given at pages 155 to 170 of the paper book. The said list is duly authenticated by the Company Secretary of the transferee company. Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts have also certified the said list. The applicant has enclosed no objection certificates/consents of unsecured creditors at pages 171 to 228 of the paper book. It is stated that the transferee company has obtained consent of unsecured creditors 95% in value terms and 88% in number terms. It is stated that the transferee company has also obtained no objection certificate of the unsecured debenture holder, which is enclosed at page 171. There is no secured creditor of the transferee company.

6. The transferor company No. 1 does not have any secured creditor and has 130 unsecured creditors to whom Rs. 335,487,973 is payable as per the certificate issued by Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts. The list of the unsecured creditors has been certified by Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts and by Ms. Rajni Kesri, Director of the transferor company No. 1. The applicant transferor company No. 1 has enclosed consent /no objection certificates of the unsecured creditors 96% in value terms and 92% in number terms. These consents/no objection certificates have been enclosed at pages 305 to 382 of the paper book.

7. The transferor company No. 2 as per certificate issued by Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts has one secured creditor and 93 unsecured creditors. The secured creditor, viz., State Bank of India has given no objection certificate and accorded their consent to the proposed scheme of amalgamation. The said certificate is enclosed at page 445. The transferor company No. 2 has 93 unsecured creditors to whom Rs. 59,072,122 is payable. The list of the said unsecured creditors has been certified by Ms. Rajni Kesri, Director of the transferor company No. 2 and Mr. Manindra K. Tiwari partner of Tiwari and Mishra Chartered Accounts. The applicant has enclosed at pages 450 to 471 no objection certificates issued by the unsecured creditors 94% in value terms and 98% in number terms.

8. In view of the aforesaid position and the no objection certificates/consents given by the unsecured creditors of the transferee and the transferor companies and the no objection certificate given by the sole secured creditor of transferor company No. 2, the present application is allowed. The requirement to hold meeting of the shareholders, secured and unsecured creditors including the debenture holder is dispensed with.

The application is disposed of.