(2023) 04 NCLT CK 0010

In the National Company Law Tribunal

Case No : CP (CAA)/185/MB-IV/2022 In CA (CAA)/152/MB/2022

Manohar Packagings Private Limited Vs

Date of Decision : 12-04-2023

Acts Referred:
Companies Act, 2013 — Section 230, 232, 232(3)(i)

Citation : (2023) 04 NCLT CK 0010

Hon'ble Judges : Kishore Vemulapalli, Member (J);Prabhat Kumar, Member (T)

Bench : Division Bench

Advocate : Ahmed M Chunawala, Rupa Sutar

Final Decision : Disposed Of

Judgement

Prabhat Kumar, Member (Technical)

1. The Bench convened through video conferencing.

2. Heard the Learned Counsel for the Petitioner Company. No objector has come before this Tribunal to oppose the Scheme and nor has the Petitioner Company controverted any averments made in the Petition to the said Scheme.

3. The sanction from the Tribunal is sought under Sections 232 read with section 230 of the Companies Act, 2013 and the rules framed there under for the Scheme of Amalgamation between Manohar Packagings Private Limited (Transferor Company) and Parksons Packaging Limited (Transferee Company) and their respective Shareholders.

4. The Board of Directors of the Petitioner Company have approved the said scheme by passing the Board Resolution dated May 10, 2022.

5. The Petition has been filed in consonance with the Order dated 12th August, 2022 passed in C.A.(CAA)/152/MB-IV/2022 of this Bench and the Petitioner Company has complied with all requirements as per directions of this Bench and they have filed necessary affidavits of compliance before the Bench.

6. That the Transferor Company is engaged in the business of manufacture and

supply of paper-based cartons and the Transferee Company is engaged in the business of manufacturing and supply of paper based folding cartons and/or gable top cartons.

7. The Learned Counsel for the Petitioner Company submits that the rationale mentioned in the Scheme is as under:

“PPL and MPPL are engaged in a similar line of business. PPL, with the objective of expanding its business operations, acquired the entire business and operations of MPPL on November 26, 2021, through purchase of 100% of the equity shares of MPPL. Pursuant to this Scheme, PPL intends to consolidate the operations of MPPL, its wholly owned subsidiary, with itself by way of merger. This is in line with PPL’s strategy of business expansion and inorganic growth.

The management of MPPL and PPL believe amalgamation of MPPL with PPL, inter alia, would have the following benefits:

i. consolidation of business activities into one single entity will lead to elimination of duplication in administrative costs and multiple record-keeping and increase operational and management efficiency and synergy resulting in cost savings and enable PPL to participate more profitably in an increasingly competitive market;

ii. more focus and concentrated efforts by management to grow the business with faster and effective decision making by eliminating unnecessary multiple and burdensome

communication and coordination effort across different entities;

iii. the merger will provide an opportunity to leverage combined assets, capabilities, experience, and infrastructure of both entities and build a stronger sustainable business and enable optimal utilization of existing resources;

iv. integrate business functions and enable the management to pool human resources with diverse skills, talent, and experience of both the companies for common advantage and for further growth and diversification in the business;

v. simplification of corporate structure and reduction of legal and regulatory compliances relating to MPPL;

vi. create enhanced value for all stakeholders of the respective companies; and

vii. consolidation of business will result in expansion of operations and cost reduction and would enable PPL to self-finance for the above-referred benefits it is likely to receive as part of the merger of the MPPL with PPL.

8. The Regional Director has filed his Report dated October 31, 2022 making certain observations and the Petitioner Company has undertaken/made following submission that :-

i) The Charge ID 100440759 relating to Supplemental Deed Memorandum to unattested memorandum of hypothecation created on 09.04.2021 amounting to

188,472,051.94 is reflecting as closed on the MCA portal.

ii) The provisions of section 232(3)(i) of the Companies Act, 2013 in respect of fees payable by Transferee Company for increase of share capital on account of merger of companies.

iii) The Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, and no change is made.

iv) The Transferee Company will comply with Income Tax Provisions in relation to proceedings/claims under Income Tax Act against the Transferor Company.

v) the Petitioner Company undertakes to comply with directions of Sectorial Authorities, if any.

9. The Regional Director appeared through its representative and submitted that their observations/ objections have been satisfactorily explained by the Petitioner Company and are acceptable to them. Hence, the Regional Director does not have any further objection to the proposed Scheme Company Petition.

10. The Official Liquidator has filed its Report on December 5, 2022 in C.A. (CAA)/152/MB-IV/2022, inter-alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner not prejudicial to the interest of the shareholders of the Transferor Company and that the Transferor Company may be ordered to be dissolved by this Tribunal.

11. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and it shall be open to the Income Tax Authorities to take necessary action to deal with, in relation to tax or any other kind of obligations of Transferor Company against the Transferee Company, as permissible under the Income Tax Law.

12. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy considering that no objection has so far been received from any Authority or Creditors or Members or any other Stakeholders.

13. Since all the requisite statutory compliances have been fulfilled, C.P. (CAA)/185/MB-IV/2022 is made absolute in terms of prayer in the Petition.

14. The Transferor Company will be dissolved.

15. The Petitioner Company is directed to file a copy of this Order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Company, electronically along with E-Form INC-28, in addition to physical copy within 30 days from the date of receipt of the Order from the Registry.

16. The Petitioner Company shall lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable within 60 days from the date

of receipt of this Order, if any.

17. All Authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai.

18. The Appointed Date is April 1, 2022.

19. Ordered Accordingly.

