

(2010) 12 DEL CK 0191

In the Delhi High Court

Case No : Company Application (M) No. 224 of 2010

North East Pure Drinks Private Ltd.

APPELLANT

Vs

Varun Beverages (International) Ltd.

RESPONDENT

Date of Decision : 20-12-2010

Acts Referred:

Companies Act, 1956 — Section 391, 394

Citation : (2010) 12 DEL CK 0191

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Mukesh Sukhija, for the Respondent

Judgement

Sanjiv Khanna, J.—This joint application under Sections 391 and 394 of the Companies Act, 1956 (Act, for short) in respect of scheme of amalgamation, annexure A-3 has been filed by North East Pure Drinks Private Limited (Transferor Company) and Varun Beverages (International) Limited (Transferee Company).

2. Registered office of the transferor company and the transferee company are located within the National Capital Territory of Delhi. The transferor company is a wholly owned subsidiary of the transferee company. Along with the application, the transferor company and the transferee company have enclosed copy of their Memorandum and Articles of Association, their latest audited balance sheets as on 31st March, 2010 and the resolutions passed by the Board of Directors of the two companies approving the proposed scheme of amalgamation.

3. The transferor company has 2 shareholders, who have given their consents/no objection certificates to the proposed scheme of amalgamation. The transferor company has 6 secured creditors as per list at page 43 of the application. The said secured creditors have given their consents/no objection certificates to the propose scheme, which have been enclosed with the application. The transferor company has 39 unsecured creditors as per the list at pages 51 and 52 and the

total amount due and payable to the said unsecured creditors is Rs. 8,70,98,211/-. The said figure is certified by the authorized signatory of the transferor company and also by O.P. Bagla & Co., Chartered Accountants. Certificate given by O.P. Bagla & Co., Chartered Accountants in this regard has been enclosed at page 53 along with list of unsecured creditors at pages 54 and 55. Along with the application, the transferor company has enclosed consents/no objection certificates given by 37 unsecured creditors equal to 94.04% of the total amount due and payable in value terms to the unsecured creditors by the transferor company.

4. The transferee company has 7 shareholders and the said shareholders and have given their consents/no objection certificates to the proposed scheme. The transferee company has four secured creditors, who have also given their consents/no objection certificates to the proposed scheme of amalgamation. The transferee company has 70 unsecured creditors as per the list given at pages 118 to 121. The said list is certified by the authorized signatory of the transferee company. The transferee company has also enclosed certificate given by O.P. Bagla & Co., Chartered Accountants at pages 122 to 124. O.P. Bagla & Co., Chartered Accountants have certified the list of unsecured creditors and the fact that the transferee company has unsecured trade creditors, to whom Rs. 26,97,68,874/- is due and payable. The transferee company has enclosed with the application, consents/no objection certificates given by 69 unsecured creditors representing 99.99% in value terms the amount due and payable to the unsecured creditor by the transferee company.

5. I have examined the balance sheet of the transferor company for the year ending 31st March, 2010. The transferor company has issued and paid up share capital of Rs. 10 Crores and has reserves and surplus of more than Rs. 9 Crores and 87 Lacs. It is seen that in the year ending 31st March, 2010, the transferor company had earned profit of more than Rs. 3 Crores and 82 Lacs and had wiped the brought forward loss of Rs. 2 Cores and 25 Lacs. I have examined the balance sheet of the transferee company. The transferee company is a profit making company and has share and paid up capital of Rs. 2 Crores and 57 Lacs. It has reserve and surplus of more than Rs. 19 Crores and 59 Lacs during the year ending 31st March, 2010 and had earned post tax profit of more than Rs. 4 Crores and 24 Lacs.

6. In view of the above position and no objection certificates/consents given, the need and requirement to convene and hold meeting of the shareholders and creditors of the transferor and transferee company is dispensed with.

The application is disposed of.