

(2023) 04 NCLT CK 0021

In the National Company Law Tribunal

Case No : Company Application (CAA) NO. 18/ KB /2023

Pressman Advertising Limited Vs

Date of Decision : 13-04-2023

Acts Referred:

Companies Act, 2013 — Section 66, 103, 108, 230, 230(1), 230(4), 230(5), 232, 232(1)
Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 — Rule 7
Companies(Management and Administration) Rules, 2014 — Rule 20
Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 — Regulation 44(1)

Citation : (2023) 04 NCLT CK 0021

Hon'ble Judges : Bidisha Banerjee, Member (J); Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Hemant Sethi, Meenakshi Manot, Anirudhya Dutta

Final Decision : Disposed Of

Judgement

Balraj Joshi, Member (Technical):

1. This Court is congregated though hybrid mode.
2. The instant application has been filed in the first stage of the proceedings under Section 230 to 232, and other applicable provisions of the Companies Act, 2013 ("Act") for orders and directions with regard to convening meetings of shareholders and Unsecured Creditors respectively in connection with the Scheme of Arrangement by way of merger of "Pressman Advertising Limited" being the "Transferor Company" (Applicant Company) and "Signpost India Limited" being the "Transferee Company" (Non-Applciant Company) whereby and whereunder the Transferor Company are proposed to be amalgamated with the Transferee Company from the Appointed date viz 1st April 2022 in the manner and on the terms and conditions stated in the said Scheme of Arrangement ("Scheme"). The Copy of the Scheme is annexed to the Company Application being Annexure – H at Page 299-324.
3. The Counsel for the Applicant submit that in so far as Non-Applciant is

concerned the registered Office of the Non-Applicant is situated at Mumbai and separate application is being filed before the Mumbai Bench (Court-III), being Company Application (CAA) No. 33/ MB/ 2023.

4. It is submitted by Ld. Counsel for the Applicant Company that the National Stock Exchange ("NSE"), and Bombay Stock Exchange ("BSE") have by the letters dated 29th December 2022 and The Calcutta Stock Exchange Limited by their letter dated 13th January 2023 have given their "no objection/no adverse observation" letters to the Applicant Company, therein respectively mentioning the observations/directions provided/given by SEBI and incremental observations by the Stock Exchanges on the Scheme, to file the Scheme with the Tribunal for its consideration .(Annexure " J1 & J2 "Pages 327 to 324) and (Annexure-A) to the additional Affidavit dated 2nd February 2022.

5. After filing of the instant company application, the company has paid off all its creditors. Certificate of the Chartered Accountant certifying that all the creditors have been paid is annexed at pg. 5 of the 2nd Supplementary Affidavit affirmed on 16th February, 2023.

6. The Applicant has the following classes of shareholders and Creditors: -

SN

NAME OF APPLICANT COMPANIES

EQUITY SHAREHOLDERS

SECURED CREDITORS

UNSECURED CREDITORS

AS ON 31ST DECEMBER, 2022

1

PRESSMAN

A. Promoter &

NIL

NIL Creditors

ADVERTISING

Promoter group: - No. of

as on 16th

NG

Shares held= 1,01,18,797

February,

LIMITED

and %age of Total

Shares= 43.09%

2023.

2nd

Supplementary Affidavit affirmed on 16.02.2023

Certificate of

B. Pubic: No. of Shares held= 1,33,64,046 and

%age of Total Shares=

56.91%

the Chartered

C. Non-Promoter Non-

Accountant at

Public: - NIL

Pg. 5 of the 2nd

Supplementary

Affidavit.

7. It is further submitted that meeting for Equity Shareholders of the Applicant Company to consider and if thought fit, to approve with or without modification, the proposed Scheme of Arrangement be held through video conferencing or other audio-visual means as may be directed by this Tribunal and necessary directions be given for the appointment of Chairman Scrutinizer and publication of notices in newspapers. (Copy of Chartered Accountant certificate as to Shareholding pattern of the Applicant Company as on 31st December 2022 is at Annexure-I at page Nos. 325-326. (Certificate of Chartered Accountant certifying that there are no Secured Creditors in the Applicant Company is at Annexure-K at page 335) and (Certificate of Chartered Account certifying list of Unsecured Creditors in the Applicant Company at Annexure -L at pages Nos. 336-337).

8. Directions are sought accordingly for (a) convening meeting of the Equity shareholders, (b) dispensing with meeting of the Secured Creditors as there are no Secured Creditors in the Applicant Company and (c) and dispensation of meeting of unsecured creditors as all the unsecured creditors has been paid off.

9. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicant, we allow the instant application and make the following orders: -

(a) Meetings to be Held: Meetings of the Equity Shareholders of the Applicant.

(b) Mode of meetings: In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014 and in accordance with Regulation 44(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the Applicant Company proposes to provide the facility of remote e-voting to its Equity Shareholders in respect of the resolution to be passed at the meeting of the Equity Shareholders of the Applicant Company. The Equity Shareholders of the Applicant Company are also allowed to avail the facility of e-voting during the aforesaid meeting to be held through video conferencing and/or other audio-visual means on May 25, 2023 at 11:00 P.M. The remote e-voting facility and e-voting facility during the meeting for the Equity Shareholders of the Applicant Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, Regulation 44 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.

Meeting Dispensed and Not Required: Meeting of the Secured Creditors and Unsecured Creditors of the Applicant Company does not arise as there is NIL Creditors.

(c) Notice for the meeting

(i) Advertisement: At least 30 (thirty) clear days before the meeting(s) to be held, as aforesaid, an advertisement of the notice of meeting(s) be published once each in the "BUSINESS STANDARD" in English and "AAJKAL" in Bengali as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The notice of the meeting shall also be placed at the web site of the company and also that of SEBI and the recognized stock exchange(s), where the stocks of the company are listed.

(ii) Individual notices : At least 30 (thirty) clear days before the date of the meeting(s) to be held, as aforesaid, notices convening the said meeting(s), along with all documents required to be sent with the same, including a copy of the said Scheme, statement prescribed under the provisions of the Act disclosing necessary details and the prescribed form of proxy, shall be sent to each of the said Equity Shareholder and Unsecured Creditors of the Applicant as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, by Registered Post or Hand delivery or through Email (to those Equity Shareholders and Unsecured Creditors of the Applicant Company) whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders and Unsecured Creditors of the Applicant Company at their last known address or email addresses as per the records of the Applicant.

(d) Chairperson: Ms. Urmila Chakraborty (Mobile No. +91 9038456899) is appointed as the Chairperson of the meeting(s) to be held as aforesaid. The Chairperson shall be paid a consolidated sum of Rs. 80,000/- for conducting the aforesaid meeting(s) as Chairperson.

(e) Scrutinizer: Mr. Hansraj Jaria (Mobile No. +91 9836400884) is appointed as the Scrutinizer of the meeting(s) to be held, as aforesaid. The Scrutinizer shall be paid a consolidated sum of Rs. 70,000/- for acting as Scrutinizer.

(f) Quorum and Attendance: That the quorum of the aforesaid meetings of the equity shareholders and Unsecured Creditors of the Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013. In case the required quorum as stated above is not present at the commencement of the meeting(s), the meeting(s) shall be adjourned by 30 (thirty) minutes and thereafter the persons/shareholders present shall be deemed to constitute the quorum.

(g) Mode of Voting: voting shall be conducted virtually as the meeting would be held through VC/OAVM.

(h) Cut-off date: The cutoff date for determining the eligibility to vote and value of votes shall be April 30, 2023 and the value of the votes cast shall be reckoned and scrutinized with reference to the said date.

(i) Voting procedure: Applicant Company shall provide the facility of remote e-voting to its equity shareholders and Unsecured Creditors in respect of the resolution to be passed at the meetings. The equity shareholders and Unsecured Creditors of the Applicant Company are also allowed to avail the facility of e-voting during the meetings to be held through VA/ OAVM. The e-voting facility for the equity shareholders of the Applicant Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, Regulation 44 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India. without requiring the physical presence of the shareholders at a common venue, as per applicable operating procedures issued by the Ministry of Corporate Affairs and SEBI with necessary modifications as stated therein.

(j) Proxies & Board Resolutions: The voting by proxy shall not be permitted as the meeting would be held through VC/ OAVM. However, voting in case of body corporate be permitted, provided the prescribed form/authorization is filed with the Applicant Company no later than 48 hours before the start of the aforesaid meetings as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

(k) That the Chairperson appointed for the said meeting(s) or any person authorized by the Chairperson do issue and send the notices of the aforesaid meeting(s).

(l) The votes cast shall be Scrutinized by the Scrutinizer. Votes cast in all the modes shall be consolidated. The Scrutinizer shall prepare and submit the reports on the meeting along with all papers relating to the voting to the Chairperson of the meetings within 7 days of the conclusion of the meetings. The Chairperson shall declare the results of the meetings after submission of the reports of the Scrutinizer.

(m) The value of each shareholder and unsecured creditor shall be in accordance with the books and records of the Applicant(s) and, where entries in the books are disputed, the chairperson shall determine the value for purposes of the said meeting(s).

(n) The resolution for approval of the Scheme put to a meeting shall, if passed by a majority in number representing three-fourths in value of the respective shareholders and Unsecured Creditors casting their votes, as aforesaid, shall be deemed to have been duly passed on the date of such meeting under Section 230(1) read with Section 232(1) of the Companies Act, 2013.

(o) The Chairperson do report to this Tribunal the results of the said meeting(s) within four weeks from the date of the conclusion of the said meeting(s). Such report shall be in Form No. CAA4 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, verified by affidavit. The Confirmation Petition to be filed within two (2) weeks from the date of filling of the Chairperson's Report.

10. Notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013 shall also be served on the following:

- i) Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
- ii) Registrar of Companies West Bengal;
- iii) Income Tax Department having jurisdiction over the Applicant clearly indicating the PAN of the company concerned;
- iv) Official Liquidator, High Court at Calcutta and
- v) Respective Stock exchanges and SEBI

by sending the same by hand delivery through special messenger, by speed post and by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Advocates / Authorized Representative of the said Applicant. If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme of Amalgamation. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the

Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA3 of the said Rules with necessary variations, incorporating the directions herein.

11. The applicant to file an affidavit proving service of notices to all statutory / sectoral authorities and compliance of all directions contained herein within two weeks after such services.

12. The application being Company Application (CAA) No. 18 /KB/2023 is disposed of accordingly.

13. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.