

(2020) 02 NCLT CK 0056

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : CAA No. 127/ND Of 2018 In Company Application (CAA) No. 70/ND Of 2018

Priceless Overseas Limited

APPELLANT

Vs

PG Industry Limited

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Companies Act, 2013 — Section 230, 231, 232

Citation : (2020) 02 NCLT CK 0056

Hon'ble Judges : Ch. Mohd. Sharief Tariq, J

Bench : Single Bench

Advocate : Vikas Kumar Verma, V.G. Sathya Moorthy, D.K. Singh, Lakshmi Gurung

Final Decision : Disposed Of

Judgement

Ch. Mohd. Sharief Tariq, J

1. Under consideration is the CAA- 127/ND/2019 filed under Sections 230 to 232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The present petition has been filed by the Petitioner Companies named above for the purpose of the approval of the Scheme of Amalgamation, as contemplated between the Companies and its Shareholders by way of Amalgamation of Transferor Company with the Transferee Company. As per the Scheme of Amalgamation (in short, 'Scheme'), "Priceless Overseas Limited" (hereinafter referred to as 'Transferor Company') is proposed to be merged with "PG Industry Limited" (hereinafter referred to as 'Transferee Company') as a going concern.

2. The Transferor Company viz., Priceless Overseas Limited is a public limited company, incorporated on 15th December 1995, under the Companies Act, 1956. The registered office is at A-30, S-11, Second Floor, Kailash Colony, New Delhi-110048. Its CIN is U74899DL1995PLC074681. The main object of the

Transferor company No. 1 is to carry on the business as buyers, departmental stores, sellers, importers, exporters, distributors, agents brokers, factors stockists, commission and agents, dealers of all kinds of fabrics textiles etc.

3. The Transferee Company, PG Industry Limited is a private limited company incorporated on 13th December 1993, under the Companies Act, 1956. The registered office is at A-30, S-11, 2nd Floor, Kailash Colony, New Delhi-110048. Its CIN is L74899DL1993PLC056421. The main object of the Transferee Company is to carry on business of preparing, mining, cutting, polishing, processing, treating, importing, exporting, purchasing, selling of all types of marble, granite, laterite, lime stone, sand stone, slabs, tiles and other building material.

4. The Board of Director of the Transferor and Transferee Company have approved the present Scheme at their respective meetings. The other necessary requirements have also been fulfilled as per the Order dated 29.05.2018 and 07th June, 2018 passed by this Bench in CA (CAA) - 70(ND)/2018.

5. It is submitted that the scheme will result in operational rationalization, organizational efficiency and optimal utilization of various resources due to pooling of management, administrative and technical skills of various resources of both the companies, better administrative and cost reduction, including reduction in managerial and administrative and other common costs.

6. The Counsel appearing for the Petitioner Companies has submitted that upon Scheme becoming effective, the amalgamating company shall stand transferred to and be vested in the amalgamated company as a going concern, without any further deed or act, together with all the properties, assets, rights, liabilities, benefits and interest.

7. The Regional Director, has filed the report on 24.07.2019 in which he raised certain objections, however on making representation another reply dated 8.1.2020 was filed in which it is clarified that there are no objections.

8. The report of Income Tax was filed on 01.05.2019 and 7.6.2019 regarding the transferor company and transferee company, in which the objection had been raised against the transferor company raising demand of Rs. 5,29,480/- for AY 2016-17. In context of the transferee company, IT only requested to protect its rights.

9. The Official Liquidator (In short, 'OL') in his Report dated 20.09.2019, based on the information submitted by the Petitioner Companies is of the view that the affairs of the Transferor companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/the Companies Act, 2013 whichever is applicable.

10. Para 16 of the Scheme provides that upon the scheme becoming effective, amalgamated company shall account for the amalgamation of amalgamating company in its books of account. All the assets and liabilities of amalgamating

company, is/shall stand transferred to and vested in amalgamated company pursuant to the scheme and shall be recorded by amalgamated company at their book values with effect from appointed date.

11. There is no additional requirement for any modification and the Scheme of Amalgamation appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under Sections 230 to 232 of the Companies Act, 2013.

12. Taking into consideration the above facts, the Company Petition is allowed and the Scheme of Amalgamation annexed with the Petitions is hereby Sanctioned. The Scheme approved shall be binding on the Shareholders, Creditors and employees of the Companies involved in this Scheme. The Appointed date of the Scheme is 31.03.2017.

13. While approving the Scheme as above, it is further clarified that this Order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.

14. The Companies to the said Scheme or other person interested shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.

15. A certified copy of this Order shall be filed with the concerned Registrar of Companies (ROC) within 30 days of the receipt of this Order.

16. The Transferor Companies shall be dissolved without winding up from the date of the filing of the certified copy of this Order with the concerned Registrar of Companies.

17. Upon receiving the certified copy of this Order, the RoC concerned is directed to place all documents relating to the Transferor Companies with that of the Transferee Company and the files relating to the Transferor Companies shall be consolidated with the files and records of the Transferee Company.

18. The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14.12.2016

19. Accordingly, the Scheme stands sanctioned and CAA - 127/ND/2018 stands disposed of.